

**RESOLUTION OF THE COMBINED PLANNING/ZONING BOARD OF
ADJUSTMENT OF THE TOWNSHIP OF ELK, COUNTY OF GLOUCESTER,
STATE OF NEW JERSEY, GRANTING PRELIMINARY MAJOR SUBDIVISION
APPROVAL AND BULK VARIANCES TO THE ESTATE OF BERTHA FOGG,
REGARDING PROPERTY LOCATED AT FERRELL ROAD (CR 641) AND
ELLIS MILL ROAD, AND BEING FURTHER SHOWN AS BLOCK 10, LOT 26
ON THE TAX MAPS OF THE TOWNSHIP OF ELK,
APPLICATION NO.: SD-18-10**

WHEREAS, Application No.: SD-18-10 (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 The Estate of Bertha Fogg, c/o The Law Office of Ward, Shindle & Hall, 196 Grove Avenue, Suite A, West Deptford, N.J. 08086 (the “Applicant”) for Preliminary Major Subdivision approval and Bulk Variances regarding property located at Ferrell Road (CR 641) and Ellis Mill Road, (the “Subject Property”) and being further shown as Block 10, Lot 26 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 20, 2019 at 7:00 P.M., time prevailing, at which time was the Applicant represented by Brian Hall, Esquire, of the Firm of Ward, Shindle & Hall, 196 Grove Avenue, Suite A, West Deptford, N.J. 08086, and also present on behalf of the Applicant did appear Lawrence M. DiVietro, Jr., P.P., P.L.S., and Andrew Hogg, P.E., both of Land Dimensions Engineering, 3 East High Street, Glassboro, N.J. 08028, the Applicant’s Professional Land Surveyor/Planner (Mr. DiVietro) , and Professional Engineer (Mr. Hogg), respectively, and Russell Young, Esq., Pitman, N.J., Executor of the Estate of Bertha Fogg; and

WHEREAS, Messrs. DiVietro and Hogg had previously appeared before the Board numerous times, at which times it was stipulated on the record that Mr. DiVietro was a Professional Land Surveyor and Professional Planner licensed in the State of New Jersey and was qualified to testify as an expert in the fields of Surveying and Planning, and that Mr. Hogg was a licensed engineer in the State of New Jersey and was qualified to testify as an expert in the field of engineering, and were Messrs. DiVietro and Hogg again stipulated on the record, as to the present Application, that they were entitled to testify as experts in their respective fields on behalf of the Applicant;

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, 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, Certified List of Property Owners within 200 ft. of the Subject Property, and Submission checklist.

B. Transmittal Letter by Thomas H. Ward, Esq. 10/11/18;

C. G.C. Surrogate's Court Executer Short Certificate 10/15/18;

D. Disclosure Statement;

E. Estate of Bertha Fogg List of Beneficiaries 10/11/18;

F. Deed Book 4099 Pages 149-154 10/18/05;

G. N.J.D.E.P. Letter of Interpretation 09/26/16;

H. Hydrological Report by Land Dimensions Engineering revised 02/06/19;

I. Environmental. Impact Statement by Land Dimensions Engineering 07/27/18;

J. Subdivision Plan sheets 1-9 by Land Dimensions Engineering revised 02/07/19;

K. Outbound and Topographic Survey by Land Dimensions Engr. 09/14/18
Site photograph;

4. The Board entered into the record the following:

A. Letter dated February 7, 2019 from Steven M. Bach, P.E., R.A., P.P., C.M.E., Bach Associates, P.C., the Board's Professional Planner, regarding his review of the Application.

B. Letter dated February 25, 2019, from Stan M. Bitgood, P.E., C.M.E., Federici & Akin, P.A., the Board's professional engineer, regarding his review of the Application.

5. The Applicant proposes to subdivide a 46 acre tract to create a 15 lot residential subdivision, known as the Estate of Bertha Fogg, which will be comprised of 12 single-family dwelling lots located on a cul-de-sac road, one stormwater management basin lot, one open space lot, and one lot to remain undeveloped and retained by the property owner. Three lots which are proposed for the cul-de-sac area, (lots 6, 7 and 8), require variances from the minimum lot frontage standard of 80 feet where 54 feet is proposed; (Sec. 96-69D(9) in the LD Cluster Development standards).

6. The Subject Property is located within the LD – Low Density Residential Zone District and is bordered to the north, west and south by other parcels in the LD Zone District, and to the east across Ferrell Road by parcels in the RE - Rural Environmental Zone District. The surrounding land uses are generally agricultural and residential in nature. The lot fronts on Ellis Mill Road (CR 641). It is situated west of Lake Gilman and south of Omary and Ewan Lakes. The proposed 50 foot wide cul-de-sac road will intersect Ellis Mill Road, approximately mid-way between Elk Road, C.R. 538, and Millstone Way.

7. The site is significantly constrained by the presence of freshwater wetlands and associated buffers (21.84 acres are wetlands and 6.63 acres are buffers). The Subject Property currently contains a garage that was accessory to a former single family dwelling and other accessory structures that will be demolished. A portion of the site is cleared around the former residence, and the remainder of the lot is wooded and vacant.

8. LD Zone Cluster Requirements and Bulk Standards

A. The Subject Property is within the LD Low Density Residential Zoning District (section 96-69) 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 applicant proposes to utilize the cluster development standards in accordance with the standards set forth in section 96-73. A clustered residential development is designed utilizing a technique based on gross dwelling unit density for the entire tract, allowing the lot size for individual homes to be reduced as long as the gross density is not exceeded. The purpose of the cluster provisions is to provide a method of developing single family detached dwellings that preserves desirable open spaces, conservation areas, flood plains, school sites, recreation

and park areas, and for other public purposes by permitting a reduction in the lot sizes and other standards without increasing the total number of lots permitted.

B. The area and yard requirements for the LD Cluster development and the required variances are outlined in the table below.

<u>Section</u>	<u>Required/Permitted</u>	<u>Proposed</u>	<u>Compliance</u>
96-69D(1) Max gross density	1 du/acre	.39 unit/acre	Complies
96-73C(3)(d) Clustering			
Total Lots Permitted	Max 38 lots	13 residential lots	Complies
96-69D(2)	40,000 sf standard		
Minimum Lot Size	25,000 sf cluster	25,164 sq ft	Complies
96-69D(3)			
Min Front Yard setback	40 feet	40 feet	Complies
96-69D(4)			
Min Rear yard Setback	40 feet	40 feet	Complies
96-69D(5)	10 ft. one side	10 ft. one side	
Min Side Yards	35 ft aggregate	35 ft aggregate	Complies
96-69D(6)			
Min lot width at bldg line	90 feet	90 feet	Complies
96-69D(7)			
Min Lot Depth	200 feet	200 feet	Complies
96-69D(9)			
Min Lot frontage	80 feet	54 feet	Variance**
96-69D(10)			
Max Height	35 feet	35 feet	Complies
96-69D(11)			
Max Building Coverage	30% max	*	Will Comply
96-69D(12) Impervious Cover	35% max	*	Will Comply
Minimum Tract Size	25 Acres	+/- 44 Acres	Complies
Undeveloped Area	26.05 Acres	26.76 Acres	Complies

* Indicates information to be supplied by Applicant.

** Variances are required for lots 6, 7 and 8.

NOTE: At the hearing, the Applicant must provide testimony to justify the requested variances. For a C(1) variance, the applicant must demonstrate that the strict application of the zoning regulations to the Subject Property create a hardship or results in exceptional practical difficulties by reason of the exceptional shape of the property or the

exceptional topographic conditions uniquely affecting the property, or the structures lawfully existing upon the property. For a C(2) variance the Applicant must show that the proposed variance advances the purposes of municipal land use law and that the benefits of the deviation would substantially outweigh any detriments. The Applicant should address whether the proposed variances will substantially impair the intent of the Master Plan or zoning plan and whether there are any potential detrimental impacts to the public good.

C. Cluster Development Requirements

Section 96-73 sets forth the standards for calculating the maximum number of residential units that may be developed and the minimum open space area that is required. The calculations are reviewed below. The Applicant has provided similar calculations however with different results.

Total number of lots permitted is calculated by subtracting 20% of the total lot area for streets, stormwater and other improvements, and dividing the remaining land area by the minimum lot size for the standard lots in the zoning district: $44.29 \text{ acres} \times 80\% = 35.43 \text{ acres}$. $35.43 \text{ acres} \times 43,560 \text{ sq ft per acre} = 1,543,330 \text{ sq ft}$. divided by 40,000 square feet = 38 total units possible. Proposed: 13 lots. The Application complies.

Minimum Tract Size is 25 acres: 44.29 acres provided. The Application complies.

Undeveloped area shall at a minimum be equal to the difference between the number of lots permitted multiplied by the standard lot sizes minus the design lot sizes, plus 50% of any undevelopable land. 38 lots are permitted. 13 proposed lots = 25. $25 \times 40,000 \text{ sq ft} = 1,000,000 \text{ sq ft}$. 13 design lots total = 325,918 sq ft. $1,000,000 - 325,918 = 674,082 \text{ sq ft}$. Plus 50% of (21.84-.69 wetlands on lots) acres of wetlands ($921,294 \text{ sq ft} \times .5 = 463,647 \text{ sq ft}$). Total open space area required is 26.05 acres ($674,082 \text{ sq ft} + 463,647 \text{ sq ft} = 1,134,729 \text{ sq ft}$). 26.76 acres provided. The Application complies.

Lands offered to the Township must meet the requirements of 96-73C(3). This is yet unknown. The Applicant must supply intent. The Board indicated that it should approach Township Committee, as a condition of approval, as to whether or not the Township would accept these lands. The Applicant agreed to comply.

Open space areas must be conveyed by deed (whether to Township or an HOA) on a pro rata basis. The Applicant agreed to comply.

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

#8 requires the Applicant to submit copies of all applications and certification of approvals from all outside agencies with jurisdiction over the proposal. The Applicant has only requested preliminary approval at this time. All outside agency approvals should be a condition of any approval given by the Board and shall be provided with the Final

Major Subdivision application. A waiver is recommended by the Board's Planner for completeness only.

#11 requires the source and date of a current or recertified property survey (within the last one year) prepared and sealed by a registered NJ Land Surveyor. The applicant has not provided a current survey with this application.

A waiver is recommended by the Board's Planner for completeness only.

#12 requires certification and monumentation required by Map Filing Law. The Applicant has requested to provide in the future. The Board's Planner has no objection to the Applicant providing at time of Final Major Subdivision application.

A waiver is recommended for completeness only.

#13 requires metes and bounds description showing dimensions, bearings, curve data, length of tangents, radii, arcs, chords and central angles for all lots, center lines and right-of-way, utility easements and centerline curve on streets. The Applicant has requested to provide in the future. The Board's Planner had no objection to the applicant providing at time of Final Major Subdivision application.

A waiver is recommended for completeness only.

#19 requires proposed street names and that the new lot numbers be approved by the tax assessor. The Applicant has not provided street names and has not provided lot numbers approved by the tax assessor.

A waiver is recommended by the Board's Planner for completeness only in order to permit the street names and approval by the tax assessor to be provided at the time of final approval.

#23 requires proposed phasing and construction schedule for entire project. The Applicant has not provided information on phasing or scheduling of the project. The Board's Planner had no objection to the Applicant providing at time of Final Major Subdivision application.

A waiver is recommended by the Board's Planner for completeness only, as there will be no phasing.

#26 requires for Cluster development where permitted, a "By-Right" sketch to determine the lot yield for a conventional subdivision be provided. The Applicant has not provided the required sketch.

A waiver is recommended by the Board's Planner for completeness only.

#30 requires a Phase I Environmental Assessment report conforming to current ASTM standards in accordance with Chapter 62A. The Applicant has not provided a Phase I Environmental Assessment report.

A waiver is recommended by the Board's Planner for completeness only, subject to the Phase I being provided prior to a Final Major Subdivision application being filed.

#31 requires a Traffic Impact Study prepared, signed and sealed by a licensed professional engineer. The Applicant has not provided a Traffic Impact Study. The Applicant should indicate whether Gloucester County has requested traffic impact information. The Board's Planner deferred to the Board's Engineer for a recommendation. The Board's engineer requested that a traffic study be submitted at the time that a Final Major Subdivision application is filed.
A waiver is recommended for completeness only.

#33 requires a statement and demonstration of compliance with affordable housing requirements as applicable. In this case the Applicant will be required to pay the mandatory development fee in accordance with the requirements of section 70-4 (1 ½ % of equalized assessed value) in order to assist the Township in meeting its affordable housing obligations. The Applicant has agreed to comply.
A waiver is recommended by the Board's Planner for completeness only.

#38 requires photographs of the site taken from the opposite side of the street and to show any unusual physical aspects of the site. The Applicant has provided aerial photographs of the site, marked as Exhibits A-1 & A-2. Additional ground views of the site will be required at the time that a Final Major Subdivision application is submitted.

#41 requires that the location of existing wells add septic systems and distances between them, and on adjacent properties, where required by the Board. The existing conditions plan does not identify any existing septic systems/tanks or wells. It is recommended that the Applicant indicate whether the septic system and well serving the former dwelling have been removed (and if so provide documentation) or whether they remain on the site. It is also recommended that the location of the well and septic system on adjacent lot 25 be shown.

A waiver recommended by the Board's Planner for completeness only, subject to the Applicant providing such information at the time that an application for Final Major Subdivision approval is submitted.

#47 requires a landscape plan in accordance with section 96-31C(20), a buffering plan in accordance with section 96-47, and sight triangles in accordance with 96-50. The Applicant has provided a landscape and lighting plan (sheet 6), but the required sight triangles and buffers to adjacent residential development and county road are not shown (25 to 50 feet in addition to minimum yard requirements).

A waiver is recommended by the Board's Planner for completeness only, subject to such information being provided at the time that an application for Final Major Subdivision approval is submitted.

#49 & #50 requires the location of existing trees or tree masses, indicating general sizes and species of trees and a Tree protection plan showing the limits of clearing and in accordance with Township Ordinances. The Applicant has shown the limits of disturbance on the demolition plan but additional information describing the character of the vegetation on site shall be provided.

A waiver is recommended by the Board's Planner for completeness only.

#53 requires any structures of historic significance on or within two hundred (200) feet of the tract, and a statement of the impact of the development on the historic structure. This information has not been provided. The Applicant testified through its engineer that there are no historic structures within 200 feet of the Subject Property.

#62 requires that the locations of street lights and fire hydrants be shown. Proposed street lights have been shown on the plans. However, the plans do not show dry water lines and fire hydrants as required by section 96-65J. The Applicant testified that it did not plan to have dry water lines or fire hydrants.

A waiver is recommended for completeness only.

#65 requires preliminary plans and profiles of proposed utility layouts and connection to existing and proposed utility systems. The applicant has not shown dry water lines and fire hydrants as required by section 96-65J. (See above)

A waiver is recommended for completeness only.

#66 requires a written commitment from the Elk Township MUA of sufficient capacity to provide sewer and water service for the project when completed (if within sewer service area). The Applicant has indicated septic systems and wells will be constructed as a means of servicing the proposed lots with sewer and water.

#75 requires the Applicant to submit a Utility Plan. The Applicant has not provided a utility plan. The Applicant's engineer testified that the only utilities will be electric, telephone, etc.

#76 requires a recreational facilities plan and details where applicable in accordance with Section 96-55. The Applicant agreed to supply such information at the time that an application for Final Major Subdivision approval is applied for.

The Board's engineer recommended a grant of the waiver for completeness only.

#77 requires the size, type, copy and location of all proposed signs. The Applicant agreed to provide such information at the time that an application is submitted for Final Major Subdivision approval.

The Board's engineer recommended a waiver for completeness only.

#78 requires that where there is potential future development of adjacent parcels or underdeveloped portions of the subject lot, locations of future pedestrian and vehicular connection be shown. The Applicant testified that it did not anticipate sidewalks and there are none in the area, but will address possible pedestrian accommodations in the front of the development, at the time that an application for Final Major Subdivision approval is submitted.

A waiver is recommended for completeness only

WHEREUPON, a motion was made by Board Member Afflerbach, which was seconded by Board Member Clark, to grant the above referenced submission waivers, based on the conditions set forth above, with the following Board members voting in favor of the motion to grant the waivers: Clark, Nicholson, McKeever, Hughes, Shultz, Afflerbach, Schmidt, White, and Swanson (Alternate Member #2). There were no votes in the negative and no abstentions or recusals. Board Members Poisker and Richardson (Alternate # 1) 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.

10. Mr. Hall, on behalf of the Applicant, provided a brief overview of the Application, consistent with the above information.

11. Mr. DiVietro, had introduced into evidence Exhibit A-1 – an aerial view of the site with the Plan of Subdivision overlay, and Exhibit A-2 an aerial view of the site with a close-up Plan of Subdivision overlay. Mr. DiVietro reviewed the exhibits with the Board, reviewed the requested variances and the reasons why they were necessary given the curvature of the cul-de-sac, as well as the proposed stormwater basin, the adjacent land conditions, etc. As far as the requested variances, Mr. DiVietro pointed out that the lots in question (6, 7 & 8) met the minimum front, rear and side yard setback requirements, and the required minimum lot size requirement. Mr. DiVietro testified that the inability to meet the minimum lot frontage for lots 6, 7 & 8, was not unusual for lots on cul-de-sacs, and that the important thing is that the lot areas and setbacks are being met. Mr. DiVietro testified that the lots in question provided adequate light, air and open space for residences, they provided sufficient space for residential development, and they generated creative development techniques and good design and arrangement, consistent with residential developments of this nature. Mr. DiVietro testified that a grant of the variances requested would not create a substantial detriment to the Township's Zone Plan or the surrounding properties insofar as they represented standard development techniques and designs.

12. The Board's Professional Planner, Stephen M. Bach, PE, RA, PP, CME, reviewed with the Board his letter of February 7, 2019, as follows:

Variances. The Applicant is requesting variances for minimum lot frontage. The minimum lot frontage permitted is 80 feet where the Applicant is proposing a lot frontage of 54 feet along proposed Lots 6, 7 & 8 along the cul-de-sac. The requested variances shall be listed in the Site Statistics on the plans. The Applicant agreed to comply.

Wetland Buffers. There are existing wetlands and wetlands buffers on many of the proposed building lots. No improvements or clearing are permitted within the wetlands or wetlands buffer areas. The lots shall be appropriately deed restricted against any improvements including but not limited to fencing, sheds, decks and pools in these areas. In addition, notice should be provided to prospective homebuyers by way of signage delineating the wetland buffer lines so homeowners will be aware of the restraints prior to purchasing the lot. The Applicant agreed to comply.

Landscaping, Lighting and Buffering.

a. According to the landscape plan, a single species of street tree is the only landscaping proposed by the Applicant, at intervals of 80 to 100 feet. The trees should be spaced at intervals of 40 to 50 feet as required by Section 96-50D(1)(b). Incorporating a variety of species is recommended; in this case a minimum of two complementary species should be utilized. The Applicant agreed to comply.

b. The plans shall provide buffers to adjacent properties as required per Section 96-50E(2)(a)[3]. The buffer should be shown as an easement and the building setback lines of any lot shall be taken from the buffer line. The Applicant agreed to comply.

c. The 25' buffer to the County Road, as required per Section 96-50E(2)(a)[3], shall be shown on the plans and shall be measured from the future right-of-way line of Ellis Mill Road. This buffer area must be landscaped to provide a year round buffer. The buffer should include a variety of trees and shrubs. The buffer should be shown as an easement and the building setback lines of any lot shall be taken from the buffer line. The Applicant agreed to comply.

d. It is recommended that fencing and landscaping be provided along the top of the basin. Shade trees along with evergreen shrubs and grasses are recommended. The Applicant agreed to work with the Board's Planner on all landscaping matters.

e. The Board's Planner recommends that proposed street lights be provided at 300 foot intervals. An additional street light shall be provided. The Applicant agreed to comply.

f. The Board's Planner recommends LED (Light Emitting Diode) light fixtures be utilized in lieu of the proposed high pressure sodium light fixtures with the following guidelines:

i. Use fully shielded lights that emit no light upwards.

ii. Use "warm white" or "filtered LEDs" to minimize blue emissions and have a color temperature of no greater than 3000 Kelvin (K).

The Applicant agreed to work with the Board's planner on all lighting issues.

g. Open Space. If the Applicant intends to offer the open space land to the Township, the requirements of Section 96-73.(3) must be adhered to as follows:

a. Connective sidewalk/walkways providing access to useable areas of the open space.

b. To facilitate a close relationship with the homeowners, The Board's Planner suggests that open space should weave between dwelling units at a width of 50 feet and connect to useable areas. In addition, the parcels should each have a view of the open

space where possible. The Plan as submitted is to provide open space as shown on the plan to include a walkway adjacent to the basin from the cul-de-sac to the open space, as well as extend the sidewalk along the county road frontage for the width of the proposed residential lot. The Applicant seeks approval of the open space plan, as submitted.

c. Parcels of land shall adhere to the conveyance schedule set forth in 96-73.(3)(d). The Applicant agreed to comply.

h. Miscellaneous. The Zoning Table provided on the plans shall be revised to provide the proposed maximum building coverage and proposed maximum impervious coverage. The Applicant agreed to comply.

13. 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 February 25, 2019, as follows:

a. Testimony and justification for a variance to permit the reduced frontage within the cluster area of 54 feet where 80 feet is required, shall be provided in accordance with the Municipal Land Use Law. Mr. DiVietro had provided such testimony.

b. Buffers are required in accordance with Code 96-47 along the north and east property line. Based on the lot sizes and residential uses, the buffer required is 25 feet which is in addition to the required side and rear yard. Add these to the plans. The Applicant agreed to comply.

c. Cover Sheet: The location map has been updated to show existing roads.

d. Existing Conditions and Demolition Plan: Items including wetlands delineation and buffer line, vegetation, and existing structures.

i. A new outbound and topographic survey of Block 10, Lot 26 has been provided.

ii. A copy of the legal description for the current lot has also been provided.

iii. The Existing Conditions plan should be signed and sealed only by the Professional Land Surveyor. The Applicant agreed to comply.

e. Plat Requirements: Plan sheet 3 is satisfactory as a Preliminary Plat.

f. Sheet 3 should be completed to include all information required for map filing, horizontal control points, outbound information, and easements that will be necessary for construction and maintenance of the storm water systems and access routes. The Applicant agreed to comply.

g. The table of Zoning requirements has been revised to indicate proposed values for which lots are indicated in which column. Lot numbers should be added to the column headings since one lot is standard while others are clustered. The Applicant agreed to comply.

- h. Right of way and subdivision monuments, both existing and those to be set, must be shown and called out. (A final subdivision item).
- i. Legal descriptions and language of restrictions and covenants (if any) for the proposed lots, proposed roadway, stormwater basin, proposed open space, proposed sight triangles, easements, and the remainder of the space should be provided. (A final subdivision item)
- j. Horizontal control points and required monuments must be shown on the plat and in the subdivision plans. (A final subdivision item)
- k. Lot 8 for the basin should be increased to completely enclose the basin discharge, rip-rap, and disturbances. This has now been done. The lot number on the plan should be corrected. The Applicant has agreed to comply.
- l. Open space is required to be provided with the subdivision. Maintenance responsibility for the open space must be assigned by HOA documents and deed, to the HOA. Accordingly, the open space must be contiguous with the dwelling lots and/or the basin lot. It may be part of the basin lot, or a separate adjacent lot with a separate number. This commitment should be a condition of Preliminary Approval. The Applicant agreed to meet with the Township Committee, prior to applying for Final Major Subdivision approval, to find out if the Township would like to take ownership of the open space area. If the Township has no interest, then an HOA would be formed to control and maintain the open space area.
- m. Site Improvement Plan: The site plan displays the basic view of the development. It includes wetlands boundary and buffer, lots with setbacks, proposed dwellings, sidewalks, crosswalks, signage, and distances to septic and wells. It also includes a general layout of the stormwater basin with fence and gate.
- n. The table of requirements has been revised to indicate maximum building coverage and maximum impervious coverage.
- o. Proposed electric, gas, and cable lines are shown to be within a 5 foot wide utility easement.
- p. Due to the size of the ATU Septic Systems, they are believed to be septic fields. Their offsets from wells and occupied buildings respectively should be 100 feet and 25 feet. As indicated, the Applicant proposes to reduce the 100 feet to 50 feet which can be approved if a number of certain conditions are met. One condition is that the wells must be cased to 50 feet which is called out on the plans. Approval from the County Health Department, and/or NJDEP should be provided as a pre-requisite to final subdivision review and approval since the approval for the reduced distances is contingent on soil properties and other factors as well as the casing of the wells. The Applicant agreed to perform various test boring son the site to determine suitability for wells and septic.
- q. Basements have been called out on the plans.

r. Common improvements, e.g. walks within open space, tot lot, or other recreation amenities should be shown. Easements or lot lines should encompass all common improvements. The Applicant agreed to comply as a part of Final Major Subdivision application submittal.

s. Code section 96-73, Cluster Single Family Residential, requires that open space should be contiguous to the occupied dwelling lots and interconnected between the proposed lots with 50 ft strips to the new streets or other common access ways. This should be addressed and consideration should be given to extending walks along Ellis Mill Road and/or paths along or around the basin lot. As set forth above, the Applicant is asking for approval of the open space configuration as is set forth on the plan.

t. Distances from the basin high water contour to the sanitary sewage disposal field has been added to the plan as 50 ft minimum.

u. Sidewalks should be extended along Ellis Mill Road. The Applicant agreed to provide sidewalks in front of the development (not all the way down Ellis Mill Road in front of the retained lot). The Applicant agreed, if necessary, to revisit this issue at the time of Final Major Subdivision approval.

v. Details:

1) Storm Sewer Construction Notes & Details:

Note 1 has been revised to allow only pre-cast inlets and manholes.

Note 3 has been revised to indicate the bottom interior of all storm structures shall be 8" below the bottom of the lowest pipe, until the inlet channel is placed and formed to be flush with the pipe invert.

The Type B Inlet and the Manhole Detail have been revised to add a thick mortar haunch around all frames on top of the precast concrete.

w. Roadway Details:

1) Callouts for F.A.B.C. have been replaced with NJDOT HMA 12.5M64 surface course.

2) Concrete walks, curbs, driveway aprons etc have been called out as NJDOT Class B air entrained concrete.

3) Cross walks and stop lines have been called out to be constructed with NJDOT Thermoplastic Material, conforming to NJDOT Standard Specifications.

4) Street light should have recessed lens. The notes have been revised to require installation shall be completed prior to applying for the first building permit. Allow not less than 3 months for Atlantic City Electric (ACE) to respond to request for pricing an agreement, for payment of fee to municipality, and for ACE to install.

5) Details and notes have been revised to require all trenches within 3 feet of any existing pavement, curb, apron, or walk shall be backfilled with controlled low strength concrete as approved by the Municipal Engineer.

6) Details and notes have been revised to require all excavations for inlets, manholes, and other structures which will be within roadway pavement, to be backfilled with controlled low strength concrete as approved by the Municipal Engineer.

x. Grading Plan: Grading between each lot on the North Side of Road "A" is shown to form swales and direct runoff between proposed dwellings and towards the back of their respective lots. On the South side of Road "A", grading is again directed to swales in-between each lot, however, they drain towards Road "A".

y. Road "A" slopes towards the cul-de-sac have been revised to provide at least 1%.

z. Grades at the crossing culvert and those leading into the cul-de-sac bulb should be adjusted to ensure 1% gutter slope toward the inlets.

aa. Additional cross slopes and spot elevations within the cul-de-sac have been added. Grading within the cul-de-sac will provide gutter slopes not less than 1% except near the high point at the north end.

bb. Two (2) bench mark points have been added to the plans.

cc. Top of block elevations and crawl space/basement elevations for proposed dwellings have been called out for each lot.

dd. Grading around dwellings must slope at least 6" in 10' from the dwelling-in all directions from all sides. Plan shall be revised. Rear corners near high points and grading divides, and along the sides of dwellings should make this very clear. (A final subdivision item)

ee. Swales between dwellings should are generally centered on property lines.

ff. Grading around the basin has been revised so that the top of basin is at least 10 feet from any property line and from the Right of Way line.

gg. A grading staging plan is not necessary now that a note has been added to require staging of soil and top soil in a well distributed manner so that adequate materials are available for completion of any lot, within the lot, at all times.

hh. A note shall has been added that no soil or top soil or other items shall be removed from the tract without the written permission from the Municipal Engineer.

ii. A note has been added requiring that stockpiles be distributed throughout the proposed lots so that soil and topsoil is available on each lot in sufficient quantity to complete the grading and stabilization of the lot.

jj. Note 13 on sheet 5 confirms that the Applicant shall grant a blanket easement to the Township to permit soil use and the movement of soils from anywhere within the tract, to anywhere needed within the tract, until all dwellings are constructed and all required improvements are constructed and accepted as satisfactory by the Municipal Governing Body.

AA. Lighting: The plans show proposed street lighting.

- The light pole at north end shall has been moved into the park strip and right of way. It should also be aligned with the radial of a property line. The Applicant agreed to comply.

- Final plans should include transformer locations and conduit layouts and easements.

BB. Landscaping: Shade trees are shown throughout the roadway. Detailed landscaping review will be deferred until final plans and other items are addressed.

- Proposed trees have been relocated so that they are at least 5 feet from the sidewalk and half the mature height's distance away from adjacent property lines.

CC. Open Space Access and Recreation. Section 96-73 requires that open space be planned to provide a close visual and physical relationship between the open space and as many dwelling lots as is reasonably possible. Open space areas should weave between dwelling lots with 50 foot widths and wider significant useable recreation areas. The plans should be revised to better comply with this section or the Applicant should propose an acceptable method of mitigation for the lack of useable recreation areas. As is set forth above, the Applicant wishes approval of the open space configuration as is set forth on the plan.

DD. Parking: The plans should include a table of parking requirements which should indicate the number of bedrooms, and where parking is provided, particularly for those lots within the cul-de-sac bulb. New Jersey Residential Site Improvement Standards (RSIS) provides for 1 parking lane on streets that have 28 foot cartways. The plans should indicate which side of the street stem will be posted as No Parking. The bulb is oversized with a 50 foot curb radius which could allow parking along the curb.

EE. Postal boxes. The Applicant shall show and detail the mail boxes and shall provide a copy of the approval from the Postmaster. USPS has advised that individual postal boxes

will no longer be served and that common multi box racks must be used for new subdivisions. (A final subdivision item)

FF. Roadway layout and Pedestrian Crosswalks: The proposed road is straight and laid out perpendicular to Ellis Mill Road ending in a cul-de-sac. A 4 foot sidewalk is included around the entire road with ADA handicap ramps and a pedestrian crosswalk at the entrance. A stop line and stop sign are shown. A shoulder extension is proposed on the side of Ellis Mill Road abutting the site. Details are included. The intersection and frontage improvements within Ellis Mill Road shall be approved by the County.

GG. Sight Triangles must be shown. Legal descriptions and recorded easements shall be submitted prior to final subdivision approval. The Applicant agreed to comply.

HH. Stormwater System Design: A complete stormwater system is proposed that includes a sand recharge basin that will hold stormwater and attenuate runoff. The basin will receive flow from Street "A" and directly from the adjacent lots. The basin features an emergency spillway and outlet structure to direct stormwater North West towards wetlands area. Each conduit outlet has a rip-rap pad to reduce any erosion that may be expected. There are 6 Type B inlets proposed to collect runoff on Ellis Mill Road and Road "A" and direct it toward the basin. The basin was designed to hold and recharge the annual equivalent deficit that will be caused by the new impervious areas. The basin also is designed to detain and attenuate peak runoff from the 10 year and 100 year storm events.

II. The details sheet is incomplete and should be re-printed. Details of the trash racks are not visible. (A final subdivision item)

JJ. The storm pipe crossing the cul-de-sac bulb has been relocated from inlet 5 to inlet 6 as recommended.

KK. A depressed curb has been added in front of the access gate to the basin.

LL. Stormwater Management Reports: The revised Hydrological Report dated February 6, 2019, contains sections summarizing the pre and post-development runoff calculations, recharge calculations, soil boring logs, pipe network calculations, soil erosion and sediment control calculations, and drainage area maps. The method used was S.C.S. Technical Release 55 which is satisfactory for complying with Township Code and NJDEP rules for calculating stormwater runoff rate and volume for small watersheds. The report has been revised to reduce the post development runoff for the 2, 10 and 100 year storm. The calculations account for the runoff from all areas of disturbance.

A low impact development checklist shall be submitted. The Applicant agreed to comply.

A copy of the standard basin summary form shall be submitted. The Applicant agreed to comply.

A stormwater maintenance and inspection manual shall be submitted. The manual shall include anticipated costs for inspections, maintenance, and common repairs. HOA documents shall include requirements and procedures for maintenance and inspection. The Applicant agreed to comply.

The fee calculation for stormwater inspections, maintenance and repairs shall be submitted for review. (This should be a final subdivision item as a condition of Preliminary Approval)

Plans shall be revised to require post construction percolation testing, prior to applying for any building permits. This testing is to be performed in the basin and shall confirm that the percolation/infiltration rate obtained is equal to or greater than that used for the design. Plans shall require construction of any changes that are necessary for the basin to comply with the design and NJDEP rules, be made and approved by the Municipal Engineer, prior to applying for building permits. (This should be a final subdivision item as a condition of Preliminary Approval).

Stormwater Management Easements: The Applicant shall grant to the Township of Elk a stormwater management access and maintenance easement for the basin area and the discharge system from the basin. A legal description shall be submitted to the Board Engineer for Review. The form and language of the easement document shall be submitted to the Board Solicitor and the Board Engineer for review. (This should be a final subdivision item as a condition of Preliminary Approval).

The basin lot and discharge piping shall be deed restricted from further development along with the open space within the remainder of lot 26. (A final subdivision item)

II. Signage: Details are provided for some traffic control signs. Final plans should include both development signs and temporary sales signs as well. Application should be made to the county for an advance warning sign with road name plaque facing each direction on Ellis Mill Road. If a development sign is proposed, the location, size, lighting, and details of construction and any easements for it shall be submitted for review. The Applicant agreed to comply.

JJ. Potable water and sanitary sewage. The Applicant should obtain and provide a copy of confirmation from NJ American Water Company of availability and of cost to extend water and sewer mains to the subdivision. The Applicant requests a waiver of extending off-site water and sewer mains to the site, or providing dry water lines as a part of the development. The Applicant agreed to review this issue with the Township's Fire Marshal.

KK. Dry hydrants and water mains have been required in a number of rural subdivisions within the Township. The Applicant should provide documentation from the Fire Marshal and the Ferrell Fire Chief regarding whether or not they want an installed dry water system. If either wants such a system, plans shall be revised prior to Preliminary

Approval. The Applicant has requested a waiver insofar as wells and septic systems will be built. The Applicant, as set forth immediately above under section "JJ", will consult with the Fire Marshal.

The Board may defer compliance of certain items to such time as the Applicant applies for Final Subdivision Approval.

14. The hearing on the Application was open to the public, at which time the following members of the public were sworn and testified on the Application:

A. Lillie Cho, 318 Meadowbrook Drive, was concerned about water runoff, the wetlands, and the ability of the stormwater basin to effectively limit water discharge into the adjacent streams and wetlands.

B. Jim Bacher, 314 Meadowbrook Drive, questioned the location of the stormwater management basin.

C. Steven Simmonds, 1482 Ellis Mill Road, was concerned with water runoff into the wetlands, and the ownership of the proposed open space area.

D. Russell Young, Esquire, Pitman New Jersey, the Executor of the Estate of Bertha Fogg, provided background information as to the Estate of Bertha Fogg, where charitable contributions will go (including local organizations), and the fact that the charitable contributions can't be made if the property isn't developed.

E. Diane Bacher, 314 Meadowbrook Drive, was concerned with water runoff onto adjacent properties due to the proposed development.

F. Alex Fruggiero, 1478 Ellis Mill Road, was concerned with drainage, water flow and the impact that the increased development would have on the local wildlife.

There being no other members of the public wishing to testify, the public portion was closed.

CONCLUSIONS

The Board concluded that Preliminary Major Subdivision approval, and the approvals of requested variances, should be granted insofar as the Board had requested significant changes, additional and more updated information, and upgrades to the plans, prior to the Applicant returning for Final Major Subdivision approval. The Board concluded that the variances for Lots 6, 7 & 8 as to the minimum required lot frontage should be granted, given that such variances are common for cul-de-sac developments, and the lots in question will still meet all setback and lot area requirements.

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, and submit such additional information as was requested during the course of the hearing on the Application, as set forth under Findings of Fact above.


WHEREAS, a motion was made by Board member Clark to grant Preliminary Major Subdivision approval, and variances, as are set forth above, 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 March 20, 2019 at 7:00 PM, time prevailing, with the following Board members voting in favor of the motion to grant the approvals: Clark, McKeever, Hughes, Shoultz, White and Schmidt. There were no abstentions or recusals. Board members Nicholson and Swanson (Alternate # 2) vote no. The following Board members were absent: Poisker, Afflerbach (who attended the hearing but left before the final vote), and Richardson (Alternate # 1).

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 April 17, 2019 as a memorialization of the approval granted in the above referenced matter by the Board at its regular meeting held on March 20, 2019 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 17th day of April 2019 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 March 20, 2019 on the above cited Application.


ANNA FOLEY, Secretary