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Elk Township Combined Planning and Zoning Board

Regular Business Meeting

June 19, 2019

Minutes

Call to Order: meeting called to order at 7:00pm.

Roll Call:

Present: Bob Clark, Ed McKeever, Ed Poisker, Donna Nicholson, Eugene Shoultz, Jeanne White

Absent: Matt Afflerbach, Jay Hughes, Richard Schmidt, Al Richardson, Wayne Swanson

Open Public Meeting Act: was read by the Board Secretary

Flag Salute: Chairperson led the flag salute.

Swear in Professionals

- **General Business:**
 - Approval of Minutes:** None
 - Resolution(s):** None

- **Old Business:** None

- **New Business:**

Pino

- 1) Completeness Hearing:

Lauren Pino, bulk variances for in-ground pool located at 210 Winesap Way, block 29.02, lot 7.
Application #ZB-19-03

Testimony was provided by Lauren Pino, applicant and Michael Neilio, Anthony Sylvan Pools. Both were sworn in.

Lauren Pino, 210 Winesap Way

Michael Neilio, Anthony & Sylvan Pools, 186 Bergen Ave., West Deptford

Ms. Pino is requesting variances from the minimum allowable impervious coverage, and side and rear yard setbacks, to permit the construction of an in-ground swimming pool and surrounding patio. The property is a residential lot within the Aura Orchards Community, which was originally planned as an age-restricted community that received approval for conversion to family residential development in 2011 (Resolution 2011-13). The subject property is located within the RE (Rural Environmental) Residential zoning district.

The surrounding properties are residential in nature and is located along the southeast side of Winesap Way, with a 25-foot landscape buffer along the rear property line. Single-family homes are adjacent to the Subject Property on the left and right sides. To the rear, the landscape buffer is a part of the stormwater easement dedicated to the HOA as Lot 12, which runs along the south side of the development.

The following waivers were requested from the submission checklist as outlined in the Board's Professionals' review letters of May 30, 2019 (Steve Bach, PP) and May 15, 2019 (Stan Bitgood, PE):

8 requires copies of applications to and certifications from all outside agencies.

Waiver is recommended for completeness only.

15 requires a statement providing an overview of proposed uses of the land and improvements, alterations or additions.

Waiver is recommended for completeness only, as the applicant will provide testimony.

21 requires a waiver list and reasoning for the requested waivers.

Waiver is recommended.

22 List of other waivers and variances.

Waiver is recommended.

35 requires schedule of zoning requirements.

Waiver is recommended as this information is provided in the Board's Professionals' review letters.

53 requires the Applicant to indicate any historic structures locate within 200 feet.

Waiver is recommended due to the nature of the Application & by testimony; no historic structures are within 200 feet.

67 requires if on-site sewage disposal is required, the results and locations of all percolation test and test borings to be provided.

Waiver is recommended as public sewer services the site.

#73 requires the Applicant to submit an LOI from the NJDEP. T

Waiver is recommended.

#77 requires the size, type, copy and location of all signs.

Waiver is recommended as no signs are proposed.

***Mr. Clark moved to grant the waivers requested and to deem the application "Complete."
Seconded by Mr. McKeever.***

Roll Call:

Voting in favor: Clark, McKeever, Nicholson, Poisker, Shoultz, White, Richardson

Against: None

Abstain: None

7-0-0

2) Public Hearing

Lauren Pino, bulk variances for in-ground pool located at 210 Winesap Way, block 29.02, lot 7.
Application #ZB-19-03

The following items were discussed as outlined in the Board Planner and Board Engineer's review letters:

Variances.

The requested variances relate to the approval of the initial subdivision in which the bulk standards were approved under the ARC (Age-Restricted zoning requirements).

Township ordinance requires larger rear and side yard setbacks. In addition, much smaller lot sizes are permitted for an age-restricted community as it relates to a single-family community. The variances are

caused by the small lot size in the RE (Rural Environmental Residential) district. Swimming pools are a permitted accessory use in the RE zone.

Bulk variances requested:

- 1) . A variance from §96-81.B. where a pool setback is required to be 25 feet from rear and side yards, when a side yard setback of 18.4 feet and rear yard setback of 12.6 feet are proposed.
- 2) A variance from impervious coverage of 20% is required by §96-71D(12) where 44.65% is proposed.

Drainage.

The proposed grading will concentrate runoff towards the swales between the property and Lots 6 and 8 and towards Lot 12 beyond the rear of the lot.

Board Engineer indicated this concentration should be mitigated by piping from the swale on the left between the pool deck and the dwelling, to a popup outlet at a minimum 5 feet off the right rear fence corner. This would be a condition of any approval granted and compliance would be documented on a revised lot-grading plan.

The Applicant agreed to comply.

Grading.

The Lot Grading Plan refers to the NAVD 88 Datum. This is required by the Elk Township Grading Plan checklist, however the current approved As-Built Survey for this lot refers to the NGVD 1929 Datum. The Datum on plan the submitted should be converted to match the NGVD 1929 Datum. The elevations of the inlet near the rear right corner of the lot and the dwelling First Floor Elevation should be checked for consistency.

The Applicant agreed to comply, as a condition of approval. Compliance would be documented on the required lot-grading plan.

Impervious Coverage (not including the pool water surface)

Should be limited to 34% in accordance with the approved subdivision design. The plan should be revised to reduce the impervious coverage by approximately 902.1 sf.

The Applicant agreed to comply.

The Applicant and Mr. Neilio testified that they will maintain the walkway around the pool and limit the patio to 375 SF instead of 550 SF. They will reduce the impervious coverage by using paver bricks. Mr. Neilio also testified that the average size pool was 600 SF in size but the proposed pool was only 400 SF in size and was the smallest in-ground pool that they install.

Stormwater Management.

The Board's engineer reviewed the stormwater management design report for the subdivision and confirmed that the basin and the portion of the system within which the Subject Property is located, was designed to handle a subdivision's impervious coverage of 34%.

It should also be noted that the operation, cleaning, and maintenance of the subdivision's stormwater management system are currently the responsibility of the Developer, and will remain so until the contributing sections of the subdivision are built out and accepted by the Township's Committee as complete. Allowing swale changes and likely erosion increases will increase the silt load to the basins and could pose problems for the maintenance and operation of the basins.

*If approved, strict erosion control measures must be implemented and must be shown on the required Lot Grading Plan.

The Applicant agreed to comply.

**The Applicant agreed to comply with the above. If access to the work site will be through any lots not owned by the Applicant, the Applicant agreed to have a licensed engineer provide plans as to how the contractor for the pool will access the Subject Property, and how the rear property will be remediated

after construction is done, if rear access is used. A copy of written approval/agreement from the owner of any such lot(s) to be used for access shall be forwarded to the Township engineer prior to applying for construction permits and prior to entering any such lots. The Applicant testified that she would most likely use the driveway from the front of the house to access the pool area for construction purposes. In any such event, no documentation will be necessary for access to the pool area through the Applicant's lot.

HOA, revised letter of approval

Applicant agrees to provide a revised letter from the Aura Homeowners Association, with the following additional language:

“The Aura Homeowners Association does hereby indemnify and hold harmless the Township of Elk, the Combined Planning/Zoning Board of Adjustment of the Township of Elk, and all officials of the same, acting within the scope of their office, as to any negative impact that the herein improvement may have on the stormwater basin and stormwater management system as a result of the added impervious coverage to accommodate the in-ground swimming pool. The Aura Homeowners Association recognizes that any such negative impact, including additional maintenance costs, will be solely borne by the Aura Homeowners Association.”

Ms. Pino and Mr. Neilio testified that they believed that the requested variances could be granted since the property would be upgraded, which would increase the property value and by extension, the neighborhood, which would meet the “positive” criteria for a grant of the variances. Ms. Pino and Mr. Neilio also testified that, in their opinion, a grant of the variances requested would not have a substantial impact on the property or the neighborhood as water runoff issues have been resolved, there would not be any visual problems given the current fence, and that there was already a pool in the immediate neighborhood and no detriments have resulted from the same.

Mr. Shoultz moved to open to the public, seconded by Mr. Clark

With no comment from the public, ***Mrs. Nicholson moved to close to the public, seconded by Chairwoman White.***

Mr. McKeever moved to grant the above referenced variances, subject to the conditions of approval as discussed and further condition upon items outlined in the Board's professionals' review letters, Seconded by Mrs. White.

Roll Call:

Voting in favor: Clark, McKeever, Nicholson, Shoultz, White, Richardson

Against: Poisker,

Abstain: None

6-1-0

Dreyer

1) Completeness Hearing:

Heinrich & Stephanie Dreyer, bulk variances for in-ground pool located at 211 Winesap Way, block 29.04, lot 2. Application #ZB-19-04

Testimony was provided Heinrich & Stephanie Dreyer, applicants, and Michael Neilio, Anthony Sylvan Pools. All were sworn in.

Heinrich & Stephanie Dreyer, 211 Winesap Way

Michael Neilio, Anthony & Sylvan Pools, 186 Bergen Ave., West Deptford

The applicants are requesting variances from the minimum allowable impervious coverage and side and rear yard setbacks, to permit the construction of an in-ground swimming pool and surrounding patio on the existing lot, in the rear and side yards of the existing dwelling. The Subject Property consists of a residential lot within the Aura Community, which was originally planned as an age-restricted community and received approval for conversion to family residential development in 2011 (Resolution 2011-13). The subject property is located within the RE (Rural Environmental) Residential zoning district. Surrounding properties are residential in nature.

The following submission checklist waivers were requested as outlined in the Board's Professionals' review letters of May 30, 2019 (Steve Bach, PP) and May 14, 2019 (Stan Bitgood, PE):

8 requires copies of applications to and certifications from all outside agencies.
Waiver is recommended for completeness only.

#11 requires the source and date of a current or recertified property survey prepared and sealed by a licensed N.J. Land Surveyor. The Applicant testified that no changes have been made since the survey of 10/31/17.
Waiver is recommended for completeness. Prior to construction, a re-certified or new survey & topography must be submitted in accordance grading plan ordinance code 96-66.

15 requires a statement providing an overview of proposed uses of the land and improvements, alterations or additions.
Waiver is recommended. The applicant will provide testimony.

21 requires a waiver list and reasoning for the requested waivers.
Waiver is recommended

35 requires schedule of zoning requirements.
Waiver is recommended by the Board's professionals as this information is provided in their review letters.

53 requires the Applicant to indicate any historic structures locate within 200 feet.
Waiver is recommended due to the nature of the Application & by testimony; no historic structures are within 200 feet.

#73 requires the Applicant to submit an LOI from the NJDEP.
Waiver is recommended.

#77 requires the size, type, copy and location of all signs.
Waiver is recommended as no signs are proposed.

Mrs. Nicholson moved to grant the waivers requested and to deem the application "Complete." Seconded by Mr. McKeever.

Roll Call:

Voting in favor: Clark, McKeever, Nicholson, Poisker, Shoultz, White, Richardson

Against: None

Abstain: None

7-0-0

- 2) Public Hearing:
Heinrich & Stephanie Dryer, bulk variances for in-ground pool located at 211 Winesap Way, block 29.04, lot 2. Application #ZB-19-04

Variations.

The requested variations relate to the approval of the initial subdivision in which the bulk standards were approved under the ARC (Age-Restricted zoning requirements).

Township ordinance requires larger rear and side yard setbacks. In addition, much smaller lot sizes are permitted for an age-restricted community as it relates to a single-family community. The variations are caused by the small lot size in the RE (Rural Environmental Residential) district. Swimming pools are a permitted accessory use in the R-E zone.

*This parcels contains a drainage easement along the rear property line and utility and street tree easements along the front property line.

Bulk variations requested:

- 1) variance from §96-81.B. where a pool setback is required to be 25 feet from rear and side yards, when a side yard setback of 20 feet and rear yard setback of 19 feet are proposed.

- 2) variance from impervious coverage of 20% is required by §96-71D(12) where 37.2% is proposed.

Drainage.

The proposed grading will concentrate runoff towards the swales between the property and Lots 1 and 3 and towards the storm easement in the rear of the lot. This concentration should be mitigated by piping from the swale on the right between the pool deck and the dwelling, to a popup outlet approximately 5 to 10 feet off the left rear fence corner. This can be a condition of any approval and compliance would be documented on a revised lot grading plan.

The Applicant agreed to comply.

Grading.

The Lot Grading Plan refers to the NAVD 88 Datum. This is required by the Elk Township Grading Plan checklist, however the current approved As-Built Survey for this Lot refers to the NGVD 1929 Datum. The Datum on this plan should be converted to match the NGVD 1929 Datum. The elevations of the inlet in the rear left corner of the lot and the dwelling First Floor Elevation should be checked for consistency. This can be a condition of approval. Compliance would be documented on the required lot grading plan.

The Applicant agreed to comply.

Limit of Disturbance.

All limits of disturbance are well beyond 5 feet of the property line, which complies with the Township Code.

Impervious coverage.

The existing lot was designed and constructed to conform to the zoning requirements of the subdivision. Therein, a maximum of 20% shows on the approved subdivision plans. The proposed accessory structure must conform to the applicable zoning ordinance at the time of construction. This is also stated in the approving resolution, 2011-13. The proposed impervious coverage is 37.20% where 20% is the maximum permitted.

Impervious coverage (not including the pool water surface) should be limited to 34% in accordance with approved subdivision design. The plan should be revised to reduce the impervious coverage by approximately 294 sf.

The Applicant agreed to comply.

Stormwater Management.

While the proposed disturbances do not require stormwater management under the NJDEP rules or the Elk Township Code, it should be noted that the runoff from this lot, and other lots in the subdivision, was approved for a maximum impervious coverage of 23%. No values are provided in the approved subdivision plans with which we could allow additional on-lot impervious areas, and still be confident that the total impervious coverage would remain below 23%. The Board’s engineer reviewed the stormwater management design report for the subdivision and confirmed that the basin and the portion of the system within which the subject property is located, were in fact designed to handle a subdivision impervious coverage of 34%.

It should also be noted that the operation, cleaning, and maintenance of the subdivision’s stormwater management system are currently the responsibility of the Developer, and will remain so until the contributing sections of the subdivision are built out and accepted by the Township’s Committee as complete. Allowing swale changes and likely erosion increases will increase the silt load to the basins and could pose problems for the maintenance and operation of the basins. If approved, strict erosion control measures must be implemented and must be shown on the required Lot Grading Plan.

The Applicant agreed to comply.

HOA, revised letter of approval

Applicant agrees to provide a revised letter from the Aura Homeowners Association, with the following additional language:

“The Aura Homeowners Association does hereby indemnify and hold harmless the Township of Elk, the Combined Planning/Zoning Board of Adjustment of the Township of Elk, and all officials of the same, acting within the scope of their office, as to any negative impact that the herein improvement may have on the stormwater basin and stormwater management system as a result of the added impervious coverage to accommodate the in-ground swimming pool. The Aura Homeowners Association recognizes that any such negative impact, including additional maintenance costs, will be solely borne by the Aura Homeowners Association.”

Both Mr. and Mrs. Dreyer and Mr. Neilio testified that they believed that the requested variances could be granted since the property would be upgraded, which would increase the value of the property and by extension, the neighborhood, which would meet the “positive” criteria for a grant of the variances. Mr. and Mrs. Dreyer also testified that, in their opinion, a grant of the variances requested would not have a substantial impact on the property or the neighborhood as water runoff issues have been resolved, there would not be any visual problems given the current fence, and there was already a pool in the immediate neighborhood and no detriments have resulted from the same.

Mr. Shoultz moved to open to the public, seconded by Mr. Clark

With no comment from the public, ***Mr. Shoultz moved to close to the public, seconded by Mr. McKeever.***

Mr. McKeever moved to grant the above referenced variances, subject to the conditions of approval as discussed and further condition upon items outlined in the Board’s professionals’ review letters, Seconded by Mr. Shoultz.

Roll Call:

Voting in favor: Clark, McKeever, Nicholson, Poisker, Shoultz, White, Richardson

Against: None

Abstain: None

7-0-0

➤ **General Public Portion**

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

With no comment from the public, *Chairwoman White moved to close the general public portion, seconded by Mrs. Nicholson.* With all members in favor, *the motion was carried.*

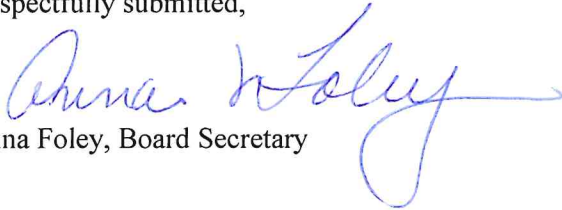
➤ **Correspondence:** None

➤ **Adjournment:**

Mr. Shultz moved to adjourn, Seconded by Mrs. Nicholson.
With all members in favor, *the motion was carried.*

Adjournment time: 8:55 pm

Respectfully submitted,



Anna Foley, Board Secretary