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Elk Township Combined Planning and Zoning Board

Regular Business Meeting

August 21, 2019

Minutes

Call to Order: meeting called to order at 7:02pm.

Roll Call:

Present: Matt Afflerbach, Bob Clark, Jay Hughes, Ed McKeever, Ed Poisker, Donna Nicholson, Richard Schmidt, Eugene Shoultz, Jeanne White, Al Richardson, Wayne Swanson

Absent:

Open Public Meeting Act: was read by the Board Secretary

Flag Salute: Chairperson led the flag salute.

Swear in Professionals

Board's substitute professional planner, Richard Fini, P.P., on behalf of the Board's Planner, Steven M. Bach, PE, RA, PP, CME, Bach Associates, PC, 304 White Horse Pike, Haddon Heights, NJ 08035 and the Board's substitute professional engineer, Paul Brier, P.E., on behalf of the Board's engineer, Stan Bitgood, P.E., C.M.E., Federici and Akin, P.A., 307 Greentree Road, Sewell, NJ 08080, were both sworn in.

➤ **General Business:**

Approval of Minutes: July 17, 2019

Mr. Afflerbach moved to approve the minutes of July 17, 2019, Seconded by Mr. Hughes.
With all other members in favor, *the motion was carried.*

Resolution(s): None

➤ **Old Business:**

The application of Johnson E. Hurff, minor subdivision with bulk variances, block 47, lot 1 located at 201 Dutch Row Road has been postponed to the September 18, 2019 agenda at the applicant's request. Formal public notice is required.

➤ **New Business:**

➤ Greentech Builders, LLC, Minor subdivision (2 lots), block 34, lot 4, Railroad Avenue, Application #SD-19-05. Completeness hearing followed by public hearing.

Completeness Hearing:

Greentech Builders was represented by attorney Jeffrey Downs of 69 S. Main St. Mullica Hill, NJ. The following individuals were present to provide testimony and were sworn in:

Vincent Zadjeka, Greentech Builders LLC Managing Member, 92 E Center Street, Clayton, NJ

Gregory J. Simonds, P.E., GS Engineering, P.O. Box 124, Swedesboro, N.J.

Mr. Downs gave a brief overview- the parcel is approximately 15 acres to be subdivided into 3 conforming lots (each approximately 4-5 acres). No improvements are proposed at this time. The parcel is encumbered with wetlands which are shown on the plans. The wetlands have been delineated and approved by the NJDEP.

The following waivers were requested from the submission checklist and technical review portion as outlined in the Board's Professionals' review letters of August 6, 2019 (Steve Bach, PP) and July 24, 2019 (Stan Bitgood, PE):

8 requires copies of applications to, and certification of, approvals from outside agencies. *Conditional Waiver is recommended. Mr. Simonds testified that the Applicant will comply, and that the Gloucester County Planning Department is the only applicable outside agency.*

12. Certification and monumentation required by Map Filing Law, if required. *Waiver is recommended. Mr. Simonds testified that this was not required.*

36 requires the Applicant to submit copies of protective covenants, easements and restrictions of record, including a current title policy. The Applicant must comply. *Waiver is recommended as Mr. Simonds testified that there were no protective covenants, easements or restrictions of record, and the Applicant has submitted a copy of the Deed and Report of Title.*

48 requires the Applicant to provide distances along the streets to the nearest intersection. *The Waiver is recommended.*

49 requires the Applicant to provide the location of all existing tree masses, indicating general sizes and species. *Waiver is recommended as no tree removal is proposed.*

50 requires the Applicant to provide a tree protection plan. *Waiver is recommended as no tree removal is proposed.*

53 requires that the Applicant provide information on any structure of historic significance on or within 500 feet of the Subject Property. *Waiver is recommended as Mr. Simonds testified that there were no historic structures within 500 feet of the Subject Property.*

55 requires the Applicant to indicate contours at 20 ft. intervals. *Waiver is recommended as no grading or improvements are proposed at this time with the understanding that a full grading plan in conformance with Section 96-66M of the Township Code must be submitted prior to the issuance of a building permit. The Applicant acknowledged the same and agreed to comply.*

57 requires the Applicant to provide a grading plan. *Waiver is recommended as no grading or improvements are proposed at this time. A grading plan must be submitted prior to the issuance of a building permit. The Applicant acknowledged the same and agreed to comply.*

58 requires the Applicant to provide a soil erosion and sediment control plan. *Waiver is recommended as no grading or improvements are proposed at this time.*

59 requires soil borings to determine soil suitability. *Waiver is recommended as no grading or improvements are proposed at this time.*

The Applicant noted that such borings would be required by, and are under the jurisdiction of, the Gloucester County Health Department, prior to a well and septic system being constructed.

66 requires a written commitment from the Township's MUA of sufficient sewer and water service capacity, if within the sewer service area. Insofar as the Subject Property is not within the sewer service area.

Waiver is recommended as there is no Township MUA at this time.

67 requires the results and location of all percolation tests and borings for an on-site sewerage disposal system.

Waiver is recommended as no improvements are proposed at this time.

75 requires the Applicant to submit a Utility Plan.

Waiver is recommended as no improvements are proposed at this time.

83 requires existing and proposed curb openings.

Waiver is recommended as no improvements are proposed at this time.

Mr. Clark moved to grant the waivers requested and to deem the application "Complete."

Seconded by Mr. Hughes.

Roll Call:

Voting in favor: Afflerbach, Clark, Hughes, McKeever, Poisker, Nicholson, Schmidt, Shoultz, White

Against: None

Abstain: None

9-0-0

Public Hearing:

Greentech Builders, LLC, Minor subdivision (2 lots), block 34, lot 4, Railroad Avenue, Application #SD-19-05.

Mr. Simonds testified as to the size and configuration of the proposed lots, the wetland and upland areas on each lot, and the nature of the adjacent properties, which were in agricultural use, mainly in the nature of forestation management. Mr. Simonds testified that no improvements were planned at this time as to either of the proposed lots. In the event that homes were constructed on the proposed lots, Mr. Simonds pointed out that no buffers would be necessary on the proposed lots as to adjacent properties, given the location and depth of wetlands on each of the proposed lots. Further Mr. Simonds noted and testified that no variances were needed since all zone code standards in the RE Zoning District were being met. Mr. Simonds added there were no existing covenants and/or restrictions and that none were anticipated in the future. Mr. Simonds provided a soils map and map description that was marked as Exhibit A-1 for the file record.

Mr. Brier reviewed the remainder of Mr. Bitgood's letter for technical review as follows:

- A. Applicant must demonstrate that the proposed lots have areas of high ground and, therefore are buildable in the future.

Mr. Simonds testified to and has confirmed the same. Mr. Simonds also provided a soils map and map description that was marked as Exhibit A-1 for the file record.

- B. Code Section 96-50.G-1. requires a landscape management/maintenance specification be provided.

Mr. Simonds testified that a waiver was requested, as this regulation doesn't apply as the proposed development isn't large enough. Board Engineer agreed.

- C. The adjacent lots are qualified farm lots. Upon confirmation that they are all woodlands management approved, agricultural buffers will not be required.

Mr. Simonds, through testimony, had confirmed the same.

D. The current right-of-way conditions should be corrected and updated. The Applicant should provide the Township a right-of-way dedication.

Mr. Simonds testified that the Applicant will comply, and that the deeds of subdivision will contain the same, and will be submitted to the Board's engineer and attorney for review and approval prior to being filed and recorded.

E. The front property corners for the new lots shall be set and shown on the plan and shall be included in all legal descriptions. Legal descriptions shall be submitted to the Board's engineer for review and approval.

Mr. Simonds testified that the Applicant will comply.

The Board's substitute planner, Richard Fini, P.P., reviewed the remainder of Bach's letter as follows:

A Page 2 of the Application states that the proposed use is single-family residences, however, on page 3 of the Application, it states that the proposed use is vacant land. The Applicant should clarify this.

Mr. Simonds had testified that the ultimate use would be for residences, but it wasn't clear at this time if the Applicant would put the lots up for sale for a buyer to build a residence thereon, or whether the Applicant will construct one or more of the residences, or both.

B Per Section 96-47.1(2)(a)[1][c] of the Township Code, an agricultural buffer is not required if the adjacent farm assessed lands are wetlands or woodlands.

Mr. Simonds confirmed the same. The Board's attorney requested that the Applicant, prior to selling off either or all the proposed lots (either as undeveloped lot(s) or with homes built thereon), provide a point-of-sale disclosure to a buyer in the Purchase Agreement, notifying the buyer of the presence of wetlands on each lot, the location of such wetlands on each lot, and state and municipal regulations and restrictions upon a land owner regarding same. The Applicant agreed to comply.

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

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

Mr. Schmidt moved to grant the minor subdivision, subject to the conditions of approval as discussed and further condition upon items outlined in the Board's professionals' review letters, Seconded by Mr. Clark.

Roll Call:

Voting in favor: Afflerbach, Clark, Hughes, McKeever, Poisker, Nicholson, Schmidt, Shoultz, White

Against: None Abstain: None 9-0-0

- Silvergate Associates, Extension Request of Approvals granted for Preliminary Major Subdivision, Phases 5 & 6 per Resolution 2016-18, regarding property located at Buck Road, Clayton-Aura Road and Fairview Road, block 65, lots 4.02 & 5, block 170, lots 14 & 18, and block 171, lot 9

Jim Maley, Esquire, was present on behalf of the Applicant Silvergate Associates
Nicholas Casey, VP of Development for Silvergate Associates, The Quakergroup (managing partner of Silvergate Associates).

Mr. Maley explained the applicant is requesting the maximum amount of time for an extension of preliminary major subdivision of phases 5 & 6, that is permitted by state statute under NJSA 40:50D-49(d). The maximum permitted is up to 5 years.

The applicant has faced a number of issues outside of its control which necessitates this extension request and Mr. Casey provided extensive testimony with regard to the last 20 years of the Silvergate development, including but not limited to the hierarchy of phases to be developed, past litigation, water and sewer issues, and the planned development of each phase, etc. Mr. Casey testified that the Applicant requested an additional 5-year period of protection from changes in zoning so that the overall project can proceed, with Phases 5 & 6 most likely being developed toward the end of the 5-year period.

The Board reviewed the facts associated with the Letter Application, the prior history associated with the development, and determined that the Applicant acted with all due diligence and in good faith in attempting to satisfy all outstanding requirements regarding its previously granted Preliminary Major Subdivision approval, within the time limits imposed by law but, despite its due diligence, exercised in good faith, could not do so due to circumstances beyond its control. Accordingly, and in keeping with the provisions set forth in N.J.S.A. 40:55D-49(d), the Applicant's request for an extension of time of 5 years, beginning August 16, 2019, in which to perfect its previously granted Preliminary Major Subdivision approval for Phases 5 & 6, should be granted.

Mr. Clark moved to grant an extension for phases 5 & 6, to permit finalization of the requirements of the previously granted Preliminary Major Subdivision approval, the extension to run for five (5) years from August 16, 2019, Seconded by Mr. McKeever.

Roll Call:

Voting in favor: Afflerbach, Clark, Hughes, McKeever, Poisker, Nicholson, Schmidt, Shoultz, White

Against: None Abstain: None 9-0-0

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- Adoption of amending prior resolutions for Lauren Pino (Resolution 2019-12) at 210 Winesap Way and for Heinrich & Stephanie Dreyer (Resolution 2019-13) at 211 Winesap Way, excising the requirement to have the HOA add additional language regarding the installation of an in-ground pool.

Board Attorney Dale Taylor, explained to the Board that two prior approved resolutions for in-ground pool variances each had a condition to have their HOA (Aura Homeowners Association) provide a letter with language representing that any negative impact to the development's stormwater basin, due to the added impervious coverage resulting from the construction of in-ground pools, would be the sole responsibility of the Aura HOA.

Subsequent to the Board's approval of both Applications, the Applicants and their contractors were able to reduce the impervious coverage to the extent that no negative impact would occur to the stormwater management basin in the Aura development, and the same was agreed to by the Board's engineer.

Therefore, the applicants are requesting to rescind this condition from each of their resolutions of approval. Lauren Pino, Resolution 2019-12, paragraph 8.(E) on page 10 and Heinrich & Stephanie Dreyer, Resolution 2019-13, paragraph 8.(E) on page 10.

Mr. Hughes moved to amend Resolution 2019-12, rescinding paragraph 8.(E) on page 10 for applicant, Lauren Pino, of 210 Winesap Way block 29.02, lot 7 by Resolution 2019-14, Seconded by Mr. Schmidt.

Roll Call:

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

Against: None Abstain: None 6-0-0

Mr. Hughes moved to amend Resolution 2019-13, rescinding paragraph 8.(E) on page 10. for applicants Heinrich & Stephanie Dreyer, of 211 Winesap Way, block 29.04, lot 11 by Resolution 2019-15, Seconded by Mr. Schmidt.

Roll Call:

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

Against: None Abstain: None 6-0-0

➤ **General Public Portion**

Mr. Hughes moved to open the general public portion, seconded by Mr. Clark.

With all members in favor, the motion was carried.

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

➤ **Correspondence:** None

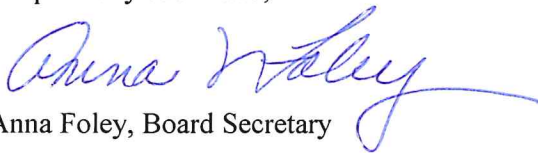
➤ **Adjournment:**

Mr. Shoultz moved to adjourn, Seconded by Mr. McKeever.

With all members in favor, the motion was carried.

Adjournment time: 9:04 pm

Respectfully submitted,



Anna Foley, Board Secretary