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Elk Township Combined Planning and Zoning Board

Regular Business Meeting Via teleconference

August 19, 2020

Minutes

Call to Order: meeting called to order at 7:07pm via Teleconference.

Roll Call:

Present: Matt Afflerbach, Jay Hughes, Ed McKeever, Donna Nicholson, Ed Poisker, Richard Schmidt, Eugene Shoultz, Jeanne White, Al Richardson (alt. 1),

Absent: Bob Clark, Wayne Swanson

Open Public Meeting Act: was read by the Board Secretary

Flag Salute: Chairperson led the flag salute.

Approval of Minutes:

May 20, 2020

Mr. Afflerbach moved to approve the minutes of May 20, 2020, Seconded by Mrs. Nicholson. With all other members in favor, the motion was carried.

➤ **Old Business:** None

➤ **New business:**

- 1) Johnson Hurff, Public Hearing minor subdivision with bulk variance, block 47, lot 1 201 Dutch Row Rd, Application SD-19-02

The Applicant and his attorney, Herb Daley, appeared at a meeting on May 15, 2019 “Completeness Hearing” at which time the application was deemed to be complete, subject to the Board acting on certain requests for waivers from submission requirements.

Submission waivers were granted for the following items:

#5-names and addresses of all stockholders or partners if the Applicant is a corporation or partnership. *A waiver was recommended as the Applicant is an individual.*

6 names and addresses of witnesses. The Applicant testified that there are no witnesses. *A waiver was recommended.*

#8 requires copies of applications to and certification of approvals from outside agencies. The Applicant has submitted the County Application, The Applicant should provide the County response when received.

A waiver was recommended for completeness only. The Applicant agreed to comply.

12 requires certification and monumentation required by Map Filing Law.

The Applicant testified that iron pins have been set.

A waiver was recommended by the Board's Engineer.

19 requires proposed street names and new block and lot numbers approved by the County Tax Assessor. There are no new streets being created and the County Tax Assessor has approved the proposed lot numbers.

A waiver was recommended.

#21 The Applicant is required to submit a list of waivers requested. The Board's Planner had provided this list. At the hearing the Applicant testified as to the reason why they were requested.

A waiver was recommended.

#33 requires a statement demonstrating compliance with affordable housing requirements as applicable including section 70-4.

A waiver was recommended as no new dwellings are proposed.

#36 requires the Applicant to submit copies of protective covenants, easements and restrictions of record, including a current title policy.

*A waiver was recommended for completeness only. **The Applicant agreed to comply.***

#41 requires the Applicant to locate existing wells and septic systems and the distances between them and on adjacent properties where required by the Board. A well is indicated on proposed Lot 1.01, however the septic location is unclear.

*A waiver was recommended for completeness only, subject to the Applicant agreeing to locate the septic system and drainage fields on the plan. **The Applicant agreed to comply.***

49 requires the location of all existing trees and tree masses.

A waiver is recommended as photographs submitted show few trees and no tree masses.

#50 requires the Applicant to provide a tree protection plan.

A waiver was recommended as no tree removal is proposed.

#53 requires the Applicant to provide information on any structure of historic significance on or within two hundred feet of the Subject Property.

A waiver was recommended as the Applicant confirmed that there are no historic structures on the Property or within 200 feet of the Property.

#57 requires the Applicant to submit a grading plan.

A waiver was recommended as no new structures are proposed.

(In the future, a full grading plan in conformance with Section 96-66M must be provided prior to the issuance of any building permits.) **The Applicant agreed to comply.**

#58 requires the Applicant to submit a soil erosion and sediment control plan.

A waiver was recommended by the Board's Planner due to the nature of the Application.

#59 requires soil borings.

A waiver was recommended due to the nature of the Application.

#66 requires a letter of sufficient capacity from the MUA.

A waiver was recommended since the property is serviced by septic system

#67 requires Soil boring and percolation data for on-site sewerage disposal.

A waiver was recommended due to the nature of the Application.

#75 requires the Applicant to submit a Utility plan.
A waiver was recommended due to the nature of the Application.

The applicant has returned to the Board for a public hearing on the bulk variance request and was represented by attorney, Herb Daley. Mr. Daley provided an update on actions taken by Mr. Hurff regarding getting approval from Gloucester County as to the septic system.

Board Planner, Candace Kanaplue reviewed her letter of April 29, 2020. She noted that the following had been received by the Applicant:

- (1) a Septic Application Approval dated November 18, 2019
- (2) a copy of a Septic Application dated November 12, 2019; and
- (3) a Revised Minor Site Plan prepared by Stephen Datz, PLS, of Datz Engineering and Land Surveying, dated December 5, 2019.

Ms. Kanaplue also testified that a frame shed is located within the agricultural buffer. Either the shed would have to be removed or a variance requested as Section 96-47.1.B.(2)(b) of the Township Code sets forth that structures are not permitted in the agricultural buffer area. Mr. Daley, on behalf of the Applicant, stated that the shed has now been removed. In accordance with Section 96-47.1.B.(3), agricultural buffers are required to be vegetated. The Applicant requested a variance, as he owns the adjoining properties, and they are all farmed. In addition, anyone purchasing the property would recognize the adjoining farm uses. Furthermore, the Applicant testified that the drainage easements for the septic fields and approvals were obtained.

Mr. Bitgood requested the following from the Applicant:

- (1) the addition of a corner marker to perfect the subdivision
- (2) the Applicant should obtain a letter from the County as to whether or not a drainage easement is required across the rear property (Lot 1) from Lot 1.01; and
- (3) the deed for Lot 1.01 should reference the required 50 foot buffer on the property. The Applicant agreed to comply.

With no other comments from the Board's Professionals, *Mrs. white moved to open to the public, seconded by Mr. Hughes.*

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

The Board concluded that the Minor Subdivision should be granted given the history of the property, its agricultural history, and the steps that the Applicant has taken to obtain septic approval and meet all other county requirements. The Board further concluded that a variance from the minimum lot size for new lot 1.01; a variance from the minimum lot depth for Lot 1; and a variance from having to vegetate the agricultural buffer; should all be granted given the shape, size and topography of the lots, the rural character of the area, and the existing uses on and around the Subject Property.

Mr. Schmidt moved to approve the minor subdivision with variances, seconded by Mrs. White.

Roll Call:

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

Against: None

Abstain: None

9-0-0

- 2) Copart of Connecticut Inc. block 66, lots 1.02, 1.03 Jacob Harris Lane, Use Variance to permit the expansion of an auto salvage yard.
Completeness Hearing

*Members Poisker and Nicholson recused themselves from the Board as the hearing involved a “use” variance and the Board had reconstituted itself as a Zoning Board of Adjustment.

The Applicant was represented by attorney Jennifer Johnson of the firm, Siciliano & Associates, LLC, 16 S. Haddon Avenue, Haddonfield, N.J. 08033. Also testifying of the applicant was Charlie Eichman, Copart Regional Manager, 138 Christian Lane, New Britain, CT 06051; and Clifton Quay, Professional Planner, Stantec, 10000 Midlantic Drive, Suite 300W, Mt. Laurel, N.J. 08054 (the Applicant’s Professional Planner). All were sworn-in by the Board Attorney.

Application overview:

The applicate is requesting a use variance to permit the expansion of a salvage yard on two vacant adjacent lots. The two parcels total 12.45 acres and are located adjacent to the north of an existing salvage yard, a pre-existing, nonconforming use, owned by the Applicant.

Lot 1.03 is approximately 5 acres, wooded and currently contains the remains of a small foundation, a small amount of wetlands and floodplain in the rear, and a drainage easement line. Lot 1.02 is approximately 7.45 acres and is wooded, with a high-tension utility tower and power lines traversing the site, along with wetlands at the rear of the parcel. The Property is surrounded by other properties also in the M1 zoning district. The adjacent uses are predominantly comprised of light industrial uses and vacant woodland.

Completeness Hearing regarding submission waiver requests:

The Board Planner, Mrs. Kanaplue, referred to her review letter dated July 2, 2020.

The Applicant requested waivers from certain submission item requirements, as follows:

#8 requires copies of applications to and certification of approvals from all outside agencies with jurisdiction.

The Applicant is bifurcating the use variance from the site plan application.

A waiver is recommended for the use variance review, but the Applicant may need to make applications to the Gloucester County Planning Board and potentially for the Gloucester County Health Department for the well and septic system.

The Applicant agreed.

#41 location of existing wells and septic systems and distances between them, and on adjacent properties where required by the Board.

A waiver is recommended.

#53 location of historic features within 200 feet.

A waiver is recommended.

#55 requires the Applicant to provide contours at 20 foot intervals on the tract and within 100 feet of the tract in accordance with the grading plan requirements.

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

#67 requires that if on-site sewerage disposal is required, the results and location of all percolation tests and test borings must be provided.

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

#77 requires the size and location of proposed signs.

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

Mr. Schmidt moved to grant the waivers requested and to deem the application complete, seconded by Mrs. White

Roll Call:

Voting in favor: Afflerbach, Hughes, McKeever, Schmidt, Shoultz, White, Richardson

Against: None Abstain: None 7-0-0

Public Hearing:

Attorney Jennifer Johnson provided a brief overview of the Application.

Mr. Eichman, Copart Regional Manager provided background information and testified that Copart did not serve as a typical automobile auction, rather, it obtained cars from insurance companies, private vehicle sellers, car dealers, etc., and arranged for sales of same by way of an on-line auction. The Subject Properties would be merged with their existing property so that additional vehicles could be stored for processing and sale. Two fences would secure the property. There would be no trash or recyclables on the property. The present property has been operating for over approximately 19 years, and there are approximately 1,400 cars presently on it. Hours of operation are Monday through Friday, 8 AM – 5 PM.

Further the vehicles were inspected prior to being sent to the site for leaks and other damage. In addition, vehicles parked on the Site would be monitored for leaks, and a leakage protocol would be followed in the event of a problem

Mr. Quay, Professional Planner, provided the following testimony as to both the “positive” and “negative” criteria as to why the Applicant’s Use Variance should be granted:

The “positive” criteria.

In Mr. Quay’s professional opinion, the proposed use met the purposes of zoning as the proposed use would be adjacent to the same use which has existed for over 19 years. The property is near Ellis Mill Road, with direct access to Route 55. The proposed use would also provide adequate light, air and open space and it would not conflict with the development of neighboring municipalities, the county or the state as a whole.

The “negative criteria”,

Mr. Quay testified that the proposed use is less intensive than many of the permitted uses in the M1 Zone District, would not have a substantial detriment on the zone plan, the master plan, or the surrounding area. The parked vehicles undergo an inspection prior to being transported to the site and are monitored for any leaks or other problems. The Applicant would follow a clean-up protocol in the event of any leakages or other problems associated with the vehicles. Further, in the almost 19 years, there have been no significant problems occurring.

Board member Schmidt asked if four acres would be cleared for the use of vehicle storage. The response was “yes.” Perimeter fencing would be expanded and no new access is proposed.

Chairwoman White asked if the vehicles would be stored on the ground and had a concern of car fluids leaching into the ground. Applicant responded that the vehicles would be stored on a stone, road type base, any water that would run off would be part of the stormwater management system to the basin. Fluids are removed prior to arriving at the site and there is a spillage protocol in place.

Board member Hughes confirmed that fluid recovery was completed before being brought to the site and asked if batteries were also removed. Mr. Hughes also asked if they only stored cars. The applicant stated typically batteries were not removed. They primarily receive automobiles but there is a mix of other vehicles. Mr. Hughes was in favor of a Knox box.

The Applicant testified that, if use variance approval was granted, it would submit a formal Major Site Plan application for approval, which will contain more detailed information. No new structures were planned at this time.

The following items were discussed per the Board Planner's letter of July 2, 2020 and the Board Engineer's letter also dated July 2, 2020:

Trash and Recyclables. The Applicant should indicate what type of trash is anticipated for this use, especially how tires, motor oil and other fluids will be disposed of.

Applicant testified that no trash or recyclables would be disposed of at the site.

Easement. The survey indicates a drainage easement on both Lots 1.02 and 1.03. In addition, a 120 foot wide Atlantic Electric easement for transmission lines traverses the Subject Property. The Applicant should indicate how this easement impacts use and development of the Subject Property. A copy of the easements should be provided.

Applicant testified that this matter is currently being addressed with Atlantic City Electric, and further information will be provided at the time a formal Major Site Plan application.

Signage.

No new signage is proposed at this time, and any signage requested would be addressed at the time of a Major Site Plan submission.

Site Plan.

Typically in a situation such as this, the Application may be "bifurcated", meaning that the use variance may be considered first, and if approved, the applicant would return to the Board for a site plan prior to occupying the Subject Property. Additional information is needed in order to inform the Board's decision on the use, but many details such as parking, access, lighting, landscaping, signage, etc could be deferred to site plan review.

Applicant acknowledged the same.

Revised plans.

Depict new expanded parking areas with aisles extending throughout most of the two lots. The Board's Engineer offered the following comments in considering the Application:

1. Bulk requirements: The plans include a table of bulk requirements that is satisfactory. The current M-1 zone data is shown. No bulk variances are proposed.
2. Plan Requirements: As the proposed use is an expansion of an existing non-conforming use in Lot 1.01, the survey should be revised to show all existing features and utilities with

Lot 1.01. The Applicant has committed to providing an updated survey of lot 1.01.
Applicant acknowledged the same.

3. As the lots 1.02 and 1.03 will have no principal business building on them, and will be operated from the existing offices in lot 1.01, the plans should be revised to consolidate the three lots, or an additional use variance should be requested to permit operation of primary business from off site. In addition, if the lots are not consolidated, drainage and access easements will be required between the three lots.

The Applicant agreed to consolidate the lots, when its Use Variance approval has been fully consummated; (see next paragraph).

4. Driveways. Access appears to be no new access to either lot. Therefore lot consolidation or access easements will be required. Testimony should confirm that the Applicant will prepare and submit a deed of consolidation if the Use Variance is granted, prior to Memorialization of the approval.

Applicant requested to address this at the time that a site plan is submitted, as it does not now have ownership of the Subject Property, and it can't take ownership until a memorialization of the use variance approval has taken place, a Notice of Adoption of the Resolution has been published, and the statutory 45-day appeal period has run its course.

i. If new access driveways are desired, the Applicant shall submit a street opening permit or site plan application immediately. The Township has a grant with which resurfacing of the road will be done this fall. The proposed location and drainage of the driveway area must be coordinated with the roadway design. *The Applicant agreed to comply.*

ii. If a gate is to be provided for the utility access, it shall be shown on a site-plan with Knox box, and lighting and set back at least 20 feet from the right of way line. *The Applicant agreed to comply.*

5. Fencing. A fence appears to be proposed around the perimeter. A fence, and particularly a solid fence, may not be appropriate for the environmentally sensitive area. If approved, NJDEP should be consulted for guidance in this regard before submission of a Site Plan Application. Copies of correspondence with NJDEP shall be submitted.

Applicant agreed to comply.

6. Landscaping. As a non-conforming use, landscaping should be considered, especially along the frontage to shield the view from the street. A commitment to provide an effective vegetated buffer should be required now as a condition of any Use Variance. The details can then be developed into the required site plans.

The Applicant agreed to comply and will incorporate any landscaping into the site plan application.

7. Lighting. No lighting is proposed. Lighting can be considered at Site Plan review.

Applicant acknowledged the same.

8. Parking. The plans show adequate parking quantity in compliance with Township ordinances. Subsequent Site Plans should include a table to show the actual number of spaces proposed versus the required.
Applicant agreed to comply.
9. Handicap Parking. To be addressed at Site Plan review.
10. Pedestrian Access. To be addressed at Site Plan review.
11. Grading. To be addressed at Site Plan review. If approved, the subsequent site plan shall include grading and drainage improvements along the frontage as the Board or Municipal Engineer may request.
Applicant agreed to comply.
12. Stormwater Management. To be addressed at Site Plan Review. A blanket drainage easement shall be provided to the Township to receive and maintain runoff and stormwater conveyances from Jacob Harris Lane.
Applicant agreed to comply.
13. Sequence. To be addressed at Site Plan Review.
14. Sewage disposal. If approved, the Applicant shall provide documentation that the existing or proposed sanitary sewage disposal system is approved for the proposed staff increase of 4 to 5 employees, with the required Site Plan application.
Applicant agreed to comply.
15. Utilities. No new buildings or utilities are proposed.

With no other comments from the professionals, ***Mrs. White moved to open to the public, seconded by Mr. Hughes.*** With all members in favor, ***the motion was carried.***

Scott Campanile, Scott Realty Group, read a letter into the record from Heidi Creta, owner of the Subject Property and a Contract Seller with the Applicant, in which Ms. Creta supported a granting of the use variance.

Mrs. White moved to close to the public, seconded by Mr. Schmidt.
With all members in favor, ***the motion was carried.***

Mr. Schmidt moved to approve the use variance for applicant Copart of Connecticut Inc.,
Seconded by Mr. Shoultz.

Roll Call:

Voting in favor: Afflerbach, McKeever, Schmidt, Shoultz, Richardson

Against: Hughes Abstain: White 5-1-1

General Public Portion

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

With all members in favor, ***the motion was carried.***

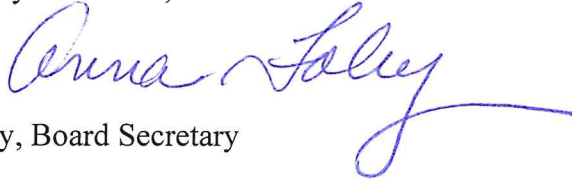
With no comment from the public, ***Mrs. White moved to close the public, seconded by Mr. Hughes***

➤ **Correspondence:**
None.

➤ **Adjournment:**

Mr. Shoultz moved to adjourn, Seconded by Mr. Hughes. With all members in favor, the motion was carried.

Adjournment time: 9:12 pm
Respectfully submitted,



Anna Foley, Board Secretary