

RESOLUTION NO. 2020-12

**RESOLUTION OF THE COMBINED PLANNING/ZONING BOARD OF ADJUSTMENT
OF THE TOWNSHIP OF ELK, COUNTY OF GLOUCESTER, STATE OF NEW JERSEY
GRANTING AN EXTENSION TO COMPLY WITH THE TERMS OF A
BULK VARIANCE GRANTED TO JEFFREY W. AND SANDRA L. TILDEN
UNDER RESOLUTION NO. 2017-11 RELATING TO PROPERTY LOCATED AT
179 RAILROAD AVENUE, AND BEING FURTHER KNOWN AS LOT 1.11 IN BLOCK 35
ON THE TAX MAP OF THE TOWNSHIP OF ELK**

WHEREAS, a letter application was made to the Elk Township Planning/Zoning Board, hereinafter the “Board” by Jeffrey W. and Sandra L. Tilden whose address is 905 Aura Road, Monroeville, NJ 08343, hereinafter the “Applicant” for an extension of time to comply with the terms and conditions of a bulk variance to permit building of a single family home on an existing lot being Lot 1.11 in Block 35 on the Elk Township Tax Map, as memorialized in the Board’s Resolution No. 2017-11 on March 15, 2017; and

WHEREAS, pursuant to Section 96-11.1 of the Elk Township Unified Development Ordinance “Any variance granted by the Zoning Board of Adjustment or the Planning Board pursuant to N.J.S.A. 40:55D-70, subsection c or d, shall expire and become null and void two (2) years from the date such variance is granted unless within said period the Applicant obtains a building permit or otherwise avails himself of the said approval”; and

WHEREAS, it appears the Applicant was unaware of the time limitation and no notice of the time limitation was set forth in the motion to grant the bulk variance approval or the resolution memorializing the grant of the approval; and

WHEREAS, it appears from the evidence that the lot in question and/or the surrounding neighborhood has not changed from what existed in March of 2017; and

WHEREAS, the Applicant has entered a contract to sell the property to a party who intends to build a single-family home thereon; and

WHEREAS, it appears the party intending to build the single family home needs additional time under the contract to determine if the lot qualifies under the terms and conditions of the previous grant of variance and other applicable laws and regulations impacting the lot; and

WHEREAS, the Applicant understands that all of the conditions set forth in Resolution No. 2017-11 adopted on March 15, 2017 must be complied with if the extension of time is granted; and

WHEREAS, the Board opened the hearing to the public and no members of the public spoke in favor of or in opposition to the requested extension of time; and

WHEREAS, under the circumstances set forth above and in the letter application, and the evidence presented, the Board finds the extension can be granted consistent with the Findings of Fact and Conclusions made by the Board when the variance with conditions was granted on February 15, 2017; and

WHEREAS, the Board further concludes that the requested extension can be granted consistent with the intent and purposes of the New Jersey Land Use Law and the Unified Development Ordinance of the Township of Elk with no indication of any detrimental impact:

NOW THEREFORE BE IT RESOLVED, by the Elk Township Planning/Zoning Board that the Applicant is granted an extension of time to obtain a building permit for construction of a single family residence on Lot 1.11 in Block 35 on the Official Tax Map of Elk Township having an address of 179 Railroad Avenue, to October 21, 2022 subject to Applicant or any successor owner of the lot complying with all of the conditions set forth in the previous approval as memorialized in the Board Resolution No. 2017-11, attached and incorporated as part of this Resolution.

ADOPTED by the Elk Township Planning/Zoning Board at a meeting held on November 10, 2020 as a memorialization of the motion adopted by the Elk Township Planning/Zoning Board granting an extension to comply with the terms of a bulk variance granted to the Applicant under Board Resolution No. 2017-11 at the conclusion of a public hearing held on October 21, 2020.

The following Board members voted in favor of the motion to grant the extension:

Clark, Hughes, Nicholson, Poisker, Schmidt, Shoultz, White, Swanson


Elk Township Planning/Zoning Board

By: _____


Jay Hughes, Vice Chairman

ATTEST:

By


Anna Foley, Secretary

RESOLUTION NO. 2017-11

**RESOLUTION OF THE COMBINED PLANNING/ZONING BOARD OF ADJUSTMENT
OF THE TOWNSHIP OF ELK, COUNTY OF GLOUCESTER, STATE OF NEW JERSEY,
GRANTING A BULK VARIANCE TO JEFFREY W. AND SANDRA L. TILDEN
LOCATED AT 179 RAILROAD AVENUE, AND BEING FURTHER SHOWN AS
BLOCK 35, LOT 1.11 ON THE TAX MAPS OF THE TOWNSHIP OF ELK**

APPLICATION NO. ZB-17-01

WHEREAS, an application was made to the Elk Township Planning/Zoning Board, hereinafter the "Board" by Jeffrey W. and Sandra L. Tilden whose address is 1630 N. Main Street, Williamstown, NJ 08094, hereinafter the "Applicant" for a bulk variance to permit building of a single family home on an existing lot being Lot 1.11 in Block 35 on the Elk Township Tax Map, with an area of 46,400sf where a minimum of 80,000sf is required; and

WHEREAS, the application was deemed to be complete on February 15, 2017 with waivers granted for completeness purposes only as to Items 8, 9, 11, 35, 38, 40, 41, 43, 53, 55, 73 and 77 on the Elk Township Land Development Checklist; and

WHEREAS, a public hearing was held by the Board on February 15, 2017 at which time the Board heard testimony from Jeffrey W. Tilden; and

WHEREAS, the Board reviewed the reports of Steven M. Bach, PE, RA, PP, CME of Bach Associates, PC dated February 13, 2017 and Stan M. Bitgood, P.E., C.M.E. of Federicci & Aiken, PA Consulting Engineers which reports are incorporated by reference herein; and

WHEREAS, the Board considered testimony of Mr. Bach and Mr. Bitgood; and

WHEREAS, the applicant produced the following Exhibits for consideration by the Board:

1. Letters to existing adjacent property owners inquiring whether or not they would be interested in either selling to the applicant a portion of their lot in order to make the applicant's lot conform as to size, or whether or not they would have an interest in buying the lot at "fair market value".
2. A plan of survey of the applicant's lot in question.
3. Individual sewerage disposal system feasibility study by South Jersey Engineers, LLC dated February 25, 2015 concluding that the property has the native soil conditions and water tables suitable to support an ISDS designed in accordance with N.J.A.C.7:9A.
4. A copy of a portion of the subdivision plan establishing the applicant's lot approved in 1999 with copy of the Elk Township Planning Board Resolution No. 99-19 memorializing the approval; and

WHEREAS, the Board opened the hearing to the public and no members of the public spoke in favor of or in opposition to the application; and

WHEREAS, the Board made the following findings of fact and conclusions based thereon:

FINDINGS OF FACT:

1. The property is located at 179 Railroad Avenue between two lots of similar size which are improved with single family dwellings, in the Rural Environmental Residential Zoning District.
2. The adjacent property to the rear is farmland.
3. The lot was established by a minor subdivision approved in 1999 before the current zoning ordinance requiring a minimum lot size of 80,000sf was adopted.
4. The applicant testified that none of the abutting property owners offered to sell applicant additional land to make the area conform to current zoning requirements and none offered to purchase the lot in question for a "fair market value" price.
5. The lot is large enough to meet all zoning bulk standards except the lot size.
6. Based on the study by South Jersey Engineers, LLC, the soils and ground water are suitable to accept a conforming onsite septic system.
7. The applicant agreed to comply with the recommendations in the reports by the Board's Engineer and Planner.

CONCLUSIONS:

1. The Board has jurisdiction to hear the application.
2. Given the size of the property and the inability of the applicant to acquire additional land to bring the property into conformance with the existing bulk area requirement under the current RE Zoning District criteria, and that the area of the lot is consistent with the two adjacent lots on which single family dwellings exist, and that the lot appears suitable to accept an onsite septic system with onsite water well, the strict application of the requirements as to the lot size would result in peculiar and exceptional practical difficulties to, and exceptional and undue hardship upon the applicant such that it is appropriate for the Board to grant the requested variance from the strict application of the lot area requirement so as to relieve the difficulties and hardship.
3. For the aforesaid reasons it appearing that a single family dwelling can be constructed on the lot which would coordinate with the dwellings on the adjacent properties which will be consistent with the character of the existing neighborhood, the variance may be granted without substantial detriment to the public good and the granting of the variance will not substantially impair the intent and purpose of the Elk Township Master Plan and Land Use and Development Ordinance if certain conditions are met.

NOW THEREFORE BE IT RESOLVED, by the Elk Township Planning/Zoning Board that the applicant is granted a bulk variance to permit construction of a single family residence on applicant's lot having an area of 46,400sf known as 179 Railroad Avenue and identified as Lot 1.11 in Block 35 on the Official Tax Map of Elk Township subject to compliance with the following conditions:

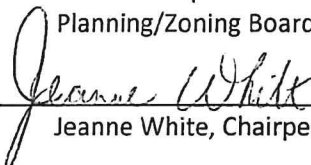
1. The location of any future dwelling and accessory residential improvements must comply with the current yard setbacks unless additional variance or variances are granted.
2. A lot grading plan is required prior to any disturbance on site and prior to applying for any building permits which shall contain contours compliant with Code Section 95-66M.
3. The location of the future well and septic system must be shown on the lot grading plan prior to applying for building permits and prior to any construction of either.
4. The applicant shall pay all required fees and escrows that are due or may become due to Elk Township within seven days' notice thereof.
5. The applicant must obtain all approvals from any and all governmental and/or public agencies as required over which the Board has no control but which are necessary in order to finalize and/or implement the relief being granted herein.
6. The applicant shall indemnify and hold the Township harmless from any claims which may be made as the result of any deficiency in the application, or as to any representation 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 by the applicant by the Township pursuant to N.J.S.A. 40:55D-12c and publication of the notice of public hearing in this matter in accordance with law.

ADOPTED by the Elk Township Planning/Zoning Board at a meeting held on March 15, 2017 as a memorialization of the motion unanimously adopted by the Elk Township Planning/Zoning Board granting the lot area bulk variance at the conclusion of a public hearing held on February 15, 2017.

The following Board members voted in favor of the motion to grant approval:
Afflerbach, Clark, Hughes, McKeever, Nicholson, Poisker, Schmidt, White, Goss

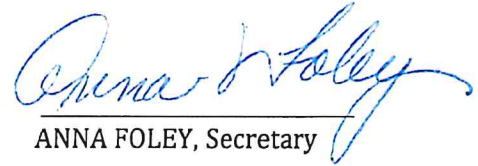
There were no abstentions or votes in the negative.

Attest: 
Anna Foley, Secretary

Elk Township
Planning/Zoning Board
By: 
Jeanne White, Chairperson

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 15th day of March 2017 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 February 15, 2017 on the above cited Application.


ANNA FOLEY, Secretary