

Resolution No.: 2021-07

RESOLUTION OF THE COMBINED PLANNING/ZONING BOARD OF ADJUSTMENT OF THE TOWNSHIP OF ELK, COUNTY OF GLOUCESTER, STATE OF NEW JERSEY, GRANTING BULK VARIANCES TO PERMIT AN ADDITIONAL ACCESSORY STRUCTURE BEYOND THE NUMBER OF ACCESSORY STRUCTURES PERMITTED, AND TO PERMIT AN ACCESSORY STRUCTURE LARGER THAN THE MAXIMUM PERMITTED SIZE FOR ACCESSORY STRUCTURES, AND TO PERMIT A HEIGHT HIGHER THAN THE MAXIMUM PERMITTED HEIGHT FOR AN ACCESSORY STRUCTURE, TO ROBERT WYATT REGARDING PROPERTY LOCATED AT 1885 WILLOW GROVE ROAD, AND BEING FURTHER SHOWN AS BLOCK 51, LOT 7.01 ON THE TAX MAPS OF THE TOWNSHIP OF ELK, APPLICATION NO.: ZB-20-05

WHEREAS, Application No.: ZB-20-05 (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 Robert Wyatt, (the “Applicant”) for bulk variances to permit an additional accessory structure beyond the number of accessory structures permitted; to permit an accessory structure larger than the maximum permitted size for accessory structures; and to permit a height higher than the permitted height for an accessory structure, all regarding property located at 1885 Willow Grove Road (the “Subject Property”) and being further shown as Block 51 Lot 7.01 on the Tax Maps of the Township of Elk (the “Township”); and

WHEREAS, the Applicant did appear at a meeting and public hearing on the Application, which was being held virtually by the Board due to the Covid-19 pandemic, on December 16, 2020 at 7:00 P.M., time prevailing, at which time did the Applicant Robert Wyatt appear virtually, and did Mr. Wyatt state that he was not represented by either by an attorney, an engineer or a professional planner, and that he did not wish to carry the hearing to the next meeting of the Board so that he might have the opportunity to retain an attorney, an engineer, or a professional planner, after which was Mr. Wyatt sworn and provided testimony on the Application;

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, Candace Kanaplue, P.P., 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 Board entered into the record the following:

A. Application, Application Fee, Escrow Agreement, Escrow Deposit, Certification of Taxes Paid on the Subject Property, Disclosure Statement, Affidavit of Ownership and Land Development Checklist.

B. An Existing Conditions Plan dated 08-24-2020, signed and sealed by James A. Clancy, P.E., P.L.S., Land Engineering, LLC, 8 East Grant Street, Suite 1, Woodstown, N.J. 08098;

C. Copy of Zoning Permit Denial dated June 15, 2020, denying the Applicant's right to construct a further accessory building on the Subject Property due to the fact that it would exceed the number of permitted accessory buildings;

D. Page 27 of the Tax Maps of Elk Township showing the location of the Subject Property;

E. Copy of a letter to the Applicant from CES Consulting Engineers, 645 Berlin-Cross Keys Road Suite 1, Sicklerville, N.J. 08081, dated August 20, 2020, reporting the presence-absence of wetlands on the Subject Property, signed by Michael C. Dupras, M.S., Senior Environmental Specialist, attached to which were four (4) colored photographs of the Subject Property, and a NJDEP Wetlands Map of the Subject Property dated 8/20/2020;

F. Eight (8) additional colored photographs of the Subject Property submitted by the Applicant, including the existing structures thereon;

G. Photo of Subject Property via a topographic map from the National Land Cover Database, USGS, undated;

H. Applicant's Statement as to his request for relief dated August 25, 2020;

I. Plan Set entitled "Wyatt Residence – Garage Addition, prepared by Mid Atlantic Structural Engineering, dated 6/15/2020;

J. Review letter on the Application dated October 14, received from the Board's Planners, Steven M. Bach, P.E., and Candace Kanaplue, P.P., Bach Associates;

K. Review letter on the Application dated October 15 2020, received from Stan Bitgood, P.E., Federici & Akin, the Board's Engineer.

4. The Subject Property currently contains an existing frame dwelling, a shed, an abandoned chicken coop (which encroaches on adjacent Lot 7), in addition to a tree house. There are currently wetlands just south of the Subject Property on Lot 7, that extend approximately 10 to 15 feet into the Subject Property. The residence on the Subject Property uses well water and a septic system for waste disposal.

5. The Applicant requests to construct a new pole barn building/garage that is 40 feet by 56 feet for the purpose of a combination of office, and space to rebuild of his 1968 Chevrolet Camaro convertible.

6. The R Rural Residential Zone District permits agricultural uses and buildings, single-family detached dwellings, public parks and playgrounds, and accessory uses that are customarily incidental and subordinate to the primary use on site. The zone standards as applied to the Application are as follows:

<u>Section</u>	<u>Required</u>	<u>Existing/Proposed Lot</u>	<u>Compliance</u>
96-70D(2) : Min. Lot Size	80,000 SF	84,000 SF	Complies
96-70D(3): Min. Front Yard	50 Ft.	> 50 Ft.	Complies
96-70D(4): Min. Rear Yard	40 Ft.	40 Ft.	Complies
96-70D(5): Min. Side Yards	20 Ft./ 50 Ft.	20 Ft. / 50 Ft.	Complies
96-70D(6): Min. Lot Width	150 Ft.	210 Ft.	Complies
96-70D(7): Min. Lot Depth	200 Ft.	400 Ft.	Complies
96-70D(9): Min. Lot Frontage	135 Ft.	210 Ft.	Complies
96-70D(10): Max. Prin. Bldg. Ht.	35 Ft.	+/- 27 Ft.	Complies
96-70D(11): Max. Bldg. Cover	15% Ft.	+/- 7.3 %	Complies
96-70D(12)(a): Max. Impervious Coverage	20%	13.4%	Complies

96-80.A.(3):	Max. Size of Accessory Structure	900 SF	2,240 SF	Variance
96-80.A.(4) :	Max. # of Accessory Structures	1	3 existing, 4 th proposed	Variance
96-80.A.(12):	Max. Acc. Bldg. Ht.	25 Ft.	27 Ft.	Variance

6. The Applicant requested waivers from the following submission requirements:

#8 Copies of applications to, and certification of approvals from, outside agencies are required. The Applicant shall submit copies of the application to outside agencies. A waiver is recommended by the Board's Planner for completeness only. The Applicant agreed to comply.

9 A Site Plan is required. The Applicant has submitted an Existing Conditions Plan with a scaled location of the proposed pole barn. A waiver is recommended by the Board's Planner.

11 A copy of the source and date of of a current or recertified property survey prepared and sealed by a registered N.J. Land Surveyor, (prepared or recertified within the last year). The Applicant has submitted an Existing Conditions Plan dated 08/24/2020. The Board's Planner recommends a waiver.

#55 The Applicant is required to submit contours and compliance with Section 96-66M prior to building permits. The Board's Planner recommends a waiver for completeness only, with the requirement that the same be submitted at the time that building permits are filed. The Applicant agreed to comply.

#67 The Applicant is required to show the results and location of all percolation tests and borings for an on-site sewerage disposal system. Recognizing that there is an existing sewerage disposal system, a waiver is recommended by the Board's Planner.

73 The Applicant is required to submit an LOI regarding wetlands from the NJDEP. The Applicant has submitted a report that certifies that the limit of disturbance will not interfere with any existing wetlands on the Subject Property. The Board's Planner recommends a waiver.

WHEREUPON, a motion was made by Board Member Nicholson, which was seconded by Board Member Afflerbach, to grant the above referenced submission waivers, subject to the representations and testimony given by the Applicant, with the following Board members voting in favor of the motion to grant the waivers: Hughes, Shoultz, White, Schmidt, Afflerbach, Nicholson, Clark, Richardson (Alternate Member # 1) and Swanson (Alternate Member #2). Board members Poisker and McKeever, were absent. There were no votes in the negative and no abstentions or recusals. The

Board, having granted the submission waivers, subject to the representations and agreements made by the Applicant, the Application was deemed to be complete. The hearing on the Application proceeded.

7. Mr. Wyatt testified that he is an engineer and works from his home. He testified that he recently relocated to the Subject Property, and it was his life-long dream to find a property where he could have ample space to rebuild 1968 Chevy Camaro Convertible which he has owned since the mid 1980s. The Camaro has to be totally reconstructed. This means that he needs space for the car, the many parts which are unassembled, a car lift, a welding machine, space for metal fabrication, storage, and other related requirements. He also wanted to use space in the proposed building for an office area as he continues to work as a self-employed engineer. He does not now have, nor will he have, any employees or customers/clients who will work at or visit the Subject Property. Furthermore, Mr. Wyatt testified that he wanted to put in a small bathroom in the proposed building so that he didn't have to leave the building and go into his house when the need arose. Mr. Wyatt testified that the Subject Property is surrounded by trees and woodlands, is almost two acres in size, and is uniquely suited to accommodate the proposed pole barn. The proposed pole barn would be set back in the rear of the house, and is largely shielded from adjacent properties and the street by way of trees and lightly forested areas.

8. The Board's Professional Planner, Candace Kanaplue, P.P., on behalf of Stephen M. Bach, PP, reviewed with the Board, Mr. Bach and Ms. Kanaplue's letter of October 14, 2020, as is set forth above.

9. 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 October 15, 2020. Mr. Bitgood requested that the Plan submitted by the Applicant should be updated with a revised title and information clarifying the extent to which the survey was updated. The Plan should, also incorporate a table of both the requirements and existing measurements along with a tabulation of what conforms and what does not. The Applicant agreed to comply.

10. The proposed grading plan that shall be submitted when construction permits are applied for the proposed garage, and shall include measures to mitigate the impact of increased runoff to Lot 7. The Applicant agreed to comply.

11. The Board asked numerous questions of the Applicant, with the purpose of limiting the use of the proposed barn to the specific purposes set forth above, and no others. Specifically:

(A). The proposed bathroom in the pole barn can only have a sink and toilet, no shower or bathtub, or similar uses.

(B). No employees or customers/clients are permitted to work in the proposed pole barn, or visit the Subject Property, for the purpose of conducting business.

(C). No kitchens or living space/uses are permitted in the proposed Pole Barn. The proposed Pole Barn can only be used for the purposes set forth above, and no other, and can never be used / converted into any type of living space, apartment, residence or similar use, either permanently or temporarily, for any reason whatsoever. This includes no kitchens, bedrooms, etc.

(D). The abandoned chicken coop on the Subject Property that encroaches on adjacent Lot 7 shall be removed in its entirety and no additional structure(s) shall be built or located anywhere on the Subject Property, except for the structure that is the purpose of the herein Application.

12. The hearing on the Application was opened to the public, at which time no member of the public present spoke either in favor of or opposed to the Application.

CONCLUSIONS

The Board concluded that the Applicant's request for variances as are set forth above should be granted, subject to the representations made by the Applicant, and the requirements made by the Board, on the basis that all area and bulk requirements will be met. The Board also concludes that the Subject Property, given its location, size, and surrounding areas, is uniquely situated for the proposed additional building. The Applicant shall be responsible for complying with all requirements set forth above, including the submission of such additional data, or revisions to the plans, as requested by the Board's professionals as a condition of approval.

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 disclosed to the Board, but which would have had a materially negative impact upon the Subject Property which had not been known or had not been 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.

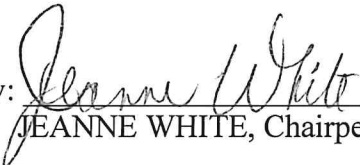
8. The Applicant shall comply with all conditions, agreements, representations and acknowledgements, as are set forth under the above Findings of Fact and Conclusions.

WHEREAS, a motion was made by Board member Clark, which was seconded by Board member Afflerbach, to grant the above variances to the Applicant, at a meeting following a public hearing held on the Application on December 16, 2020 at 7:00 PM, time prevailing, with the following Board members voting in favor of the motion to grant the approvals: Hughes, Shoultz, Afflerbach, Clark, and Richardson (Alternate member #

1). The following Board members voted “no”: White, Schmidt, Nicholson, and Swanson, (Alternate Member # 2). Board Members Poisker and McKeever were absent. There were no abstentions or recusals. The Application was approved by a vote of 5 in favor and 4 opposed.

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 January 20, 2021, as a memorialization of the approval granted in the above referenced matter by the Board at its regularly scheduled meeting and public hearing held on December 16, 2020 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 20th day of January 2021 at the Township Municipal Building, 680 Whig Lane, Monroeville, N.J. 08343 at 7:00 PM, time prevailing, as a memorialization of the action taken by the Board at the Board’s meeting and public hearing held on December 16, 2020 on the above cited Application.


ANNA FOLEY, Secretary