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Elk Township Combined Planning and Zoning Board

Regular Business Meeting

January 20, 2021

Minutes

Call to Order:

Regular Business meeting was called to order at 7:22pm immediately following the Board's Reorganization meeting.

Roll Call:

Present: Matt Afflerbach, Bob Clark, Jay Hughes, Ed McKeever, Donna Nicholson, Ed Poisker, Richard Schmidt, Eugene Shoultz, Jeanne White, Al Richardson (alt. 1), Wayne Swanson (alt. 2)

Absent:

Open Public Meeting Act: was read by the Board Secretary

Flag Salute: Chairperson led the flag salute.

Approval of Minutes: None

Resolution(s):

2021-07-granting 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 maximum permitted height to Robert Wyatt, 1885 Willow Grove Road, block 51, lot 7.01. Application #ZB-20-05.

Mr. Afflerbach moved to adopt Resolution 2021-07. Seconded by Mr. Clark.

Roll Call:

Voting in favor: Afflerbach, Clark, Hughes, Shoultz, Richardson

Against: none **Abstain:** none **5-0-0**

2021-08- granting “completeness” of an application for Preliminary Major Site Plan for Silvergate Phase 7, block 52, lot 12.02, block 53, lot 1, and block 174, lot 1, properties located on Buck Road, Daisy Avenue, Willow Grove Road and Elk Road, to applicant Silvergate Associates. Application #ZB-20-03.

Mrs. Nicholson moved to adopt Resolution 2021-08 Seconded by Mr. Schmidt.

Roll Call:

Voting in favor: Afflerbach, Clark, Hughes, Nicholson, Schmidt, Shoultz, White, Richardson, Swanson

Against: none **Abstain:** none **9-0-0**

➤ **Old Business:** None

➤ **New business:**

1. **Completeness Hearing:**

Joseph Sturek, Bulk variances request to accommodate an inground pool at 505 Empire Way, East, Block 29.08, lot 7. Application #ZB-20-09.

Representing the applicant was Attorney Robert Casella of Testa, Heck & White, 424 Landis Avenue, Vineland NJ. Mr. Casella gave a brief overview of the application:

The following individuals were sworn to provide testimony:

Robert Sturek, 505 Empire Way, East, Glassboro, NJ

Norman Rodgers, Engineer of CES Consulting Engineers, 645 Berlin-Cross Keys Rd, Sicklerville, NJ

Board Planner, Candace Kanaplue of Bach Associates, referred to her review letter dated, December 1, 2020, regarding the following requested waivers:

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

Waiver is recommended as none are required for this application.

Item #18 requires a copy of the tax map sheet.

Waiver is recommended by board Engineer.

Item #21 submit a list of waivers requested from the Submission checklist.

Waiver is recommended as Board Planner has outlined the waivers in her review letter.

Item #53 requires Applicant to indicate any historic structures located within 200 feet of the Subject Property. The Applicant has requested a waiver because there are no historic structures within 200 feet.

Waiver is recommended.

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

Waiver is recommended as the site is serviced by public sewer.

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

Waiver is recommended.

Board Engineer had no additional items.

Mrs. White moved to grant the waivers and deem the application complete.

Seconded by Mrs. Nicholson.

Roll Call:

Voting in favor:

Afflerbach, Clark, Hughes, Nicholson, Poisker, Schmidt, Shoultz, White, Richardson

Against: None

Abstain: None

9-0-0

Public Hearing:

Joseph Sturek, Bulk variances request to accommodate an inground pool at 505 Empire Way, East, Block 29.08, lot 7. Application #ZB-20-09

Applicant's Engineer, Norm Rodgers of Consulting Engineers, provided testimony regarding the positive & negative criteria to justify the variances requested. The development was originally approved as an age restricted community and then received approval for conversion to family residential development in 2011. The proposed pool is 14x34. The lot is very narrow and shallow (75 x 100) resulting in exceptional difficulties to meet the required setbacks.

The deviation from the preexisting zoning setback and pervious coverage is consistent with the neighborhood and does not have a substantial impact to the municipal land use, master plan, or impacts to the public good.

Due to the lot's narrowness and shallowness, resulting in exceptional difficulties, the applicant is requesting variance relief to provide 10 foot side & rear yard setbacks where 25 feet side and rear setbacks are required, and to permit 49.4 of impervious coverage where the pre-existing non-conforming impervious coverage is 41.9 where 20% impervious coverage is required.

Ms. Kanaplue & Mr. Bitgood continued with the balance of their review letters outlining the variances required as:

- 1) Maximum impervious coverage (Ordinance section 96-71D(12) :
41.4% exists where 49.4% is proposed
- 2) Minimum setback to waterline (Ordinance section 96-81B):
25 ft is required (rear & side yards) where 10 ft rear & side is proposed

Open to public:

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

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

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

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

Mr. Hughes moved to grant the variances as discussed condition upon the professionals' review letters, testimony provided and further condition upon all required outside agency approvals. Seconded by Mr. Schmidt.

Roll Call:

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

Against:

Abstain:

9-0-0

Board members Donna Nicholson & Ed Poisker were excused from the board for the next application as they are not eligible to vote on a Zoning Board Application for a Use Variance.

The Vineyards at Silver Lake -Elk, LLC

2) Completeness Hearing:

The Vineyards at Silver Lake-Elk, LLC & Russo Homes, LLC-: “D”(3) Use Variance request to change head of household age for age restricted community. Application No. ZB-20-07

Jack Plackter, Esquire, Fox Rothschild, 1301 Atlantic Avenue, Suite 200, Atlantic City, N.J. represented the applicant.

The following individuals were sworn in:

Leah Furey Bruder, P.P., A.I.C.P., LFB Land Planning, 22 Coates Street, Medford, N.J.

Nate Russo, Managing Member, Russo Homes, LLC

The applicant is requesting variance relief of an existing approval. The Property is an age-restricted community comprised of 42 lots, 41 of which are approved for single-family age restricted dwellings. The Applicant is requesting relief from the requirements of Elk Township Code section 96-74.B.(4) which states that occupancy of homes in Age-Restricted Communities be limited to persons 55 years or over. The Applicant requests that an exception be made for six (6) lots in the development to allow for the lowering of age from 55 to 50. The relief will only apply to initial home sales not resales.

Board Professionals reviewed their letters for requested waivers, Planner’s letter dated November 24, 2020 and Engineers letter dated November 3, 2020 as follows:

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

A waiver is recommended.

Item #9 A plat/plan. The Applicant has supplied a landscape and lighting plan from the original submission.

A waiver is recommended.

Item #11 Source and date of current or re-certified property survey.

A waiver is recommended.

Item #18 Tax map sheet.

A waiver is recommended.

Item #25 Plans at minimum scale of 1 inch = 50 feet.

A waiver is recommended.

Item #34 The names and widths of all abutting streets, including the right of way and cartway (pavement width)

A waiver is recommended.

Item #35 A schedule of district bulk regulations.

A waiver is recommended.

Item #38 requires the applicant provide photographs of the site.
A waiver is recommended.

Item#40 Location design and dimensions of each new and existing structure and wooded areas.
A waiver is recommended .

Item #41 requires the Applicant provide location of existing wells and septic systems.
A waiver is recommended.

Item #43 requires the Applicant provide the existing and proposed use of all buildings and structures.
A waiver is recommended .

Item #53 location of historic features within 200 feet.
A waiver is recommended .

Item #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.

Item #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.

Item #73 requires the Applicant to submit a NJDEP LOI for wetlands or a statement/ certification from an expert stating that there are no wetlands on or in close proximity to the site.
A waiver is recommended.

Item #77 requires the size and location of proposed signs.
A waiver is recommended.

***Mrs. White moved to grant the waivers and deem the application complete.
Seconded by Mr. Schmidt.***

Roll Call:

Voting in favor:

Afflerbach, Clark, Hughes, McKeever, Schmidt, Shoultz, White,
Against: None Abstain: None 7-0-0

Board planner had provided a review letter of November 24, 2020. Mrs. Kanaplue had no other questions or comments.

Board Engineer had no engineering concerns. Mr. Bitgood asked for testimony and documentation regarding how the variances, if approved, would be implemented and enforced. Mr. Bitgood added a condition of approval should include the applicant recording approved revisions to the HOA documents and the Declaration of Restrictions and Covenants within a reasonable amount of time.

Applicant's Planner, Leah Bruder provided the following testimony:

A "D(3)" variance is required to permit a deviation from a standard pertaining to a conditional use. For a D(3) conditional use variance, The *Coventry Square* decision requires that the Applicant demonstrate :

- 1) that the site continues to be appropriate for the proposed use despite the fact that the proposal deviates from a condition imposed on the use, and
- 2) that any problems that could be brought by the deviation from the standards and conditions can be accommodated by the site.

For the positive criteria, the Applicant must demonstrate that up to six (6) of the total 41 residential units may be occupied by a head of household aged 50 or older (rather than 55 or older) without undermining the intent and purpose of the Age Restricted Community Zone standards.

For the negative criteria, the Applicant must demonstrate that the proposed deviation will not have a more detrimental effect on the surrounding area than a conforming residential development would have.

Ms. Bruder testified that, in her professional opinion, the proposed specific and limited deviation from the occupancy requirements will not fundamentally alter the residential use of the land; it will not have any measurable impact on the neighborhood; it will not be a detriment to the public good; and the variance will not substantially impair the intent and purpose of the zone plan, or zoning ordinance. As for the neighbors and the neighborhood impact, the HOA has approved the proposal and each contract is provided to the HOA for review.

Mrs. Bruder responded to Mr. Bitgood's questions that the HOA has approved the proposal and each contract is provided to the HOA for review. The applicant agrees to record approved revisions to the HOA documents and the Declaration of Restrictions and Covenants once reviewed and approved by the Board Solicitor.

Monitoring will be done by the HOA because they need to maintain compliance with the HUD requirement that 80% of the units will be occupied by people 55 and older. Therefore, each contract will be reviewed to make sure there will not be more than the six(6) units. Resale units revert back to the age of 55 or older.

Ms. Bruder further testified that the proposal advances the goal of the of the Municipal Land Use Law, specifically NJSA 40:55D-2,(a), (e), and (i), and that the proposal advance s the goals set forth in the Township's Master Plan and does not undermine the intent of the MD (moderate density)Zone District or the ARC (Age Restricted Community) standards. In Mrs. Bruder's professional opinion, there would not be substantial detriment to the public good resulting from this proposal and, further, the proposal will not have a substantial detrimental impact on the surrounding properties.

Mr. Swanson recommended a deed restriction be placed in the deeds for those six (6) specific lots indicating the resale of the home was to someone 55 or older.
Applicant agreed.

Mr. Hughes asked if the HOA had submitted documents agreeing to the age change and if the six lots were specially identified within the development. Applicant answered "yes", to providing

documents that the HOA was in agreement with the age change. Mr. Russo confirmed the six lots are not specifically identified.

Open to public:

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

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

Al Palmeri, 14 Thornwood Drive, HOA Vice President of “The Vineyards”

Mr. Palmeri stated the HOA board was in full support of the application before the board.

Frank Speziali, 50 Thornwood Drive, HOA President “The Vineyards”

Mr. Speziali was also in agreement with Mr. Palmeri’s comment – HOA was in full support t of the application.

Mr Shoultz moved to close to the public, seconded by Mr. Clark. With all members in favor, ***the motion was carried.***

Mr. Schmidt moved to grant Use variance, seconded by Mr. Afflerbach.

Roll Call:

Voting in favor:

Afflerbach, Clark, Hughes, McKeever, Schmidt, Shoultz, White,

Against: None Abstain: None 7-0-0

➤ **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 portion, seconded by Mr. Schmidt.***

➤ **Correspondence:**

None

➤ **Adjournment:**

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

Adjournment time: 8:42 pm

Respectfully submitted,



Anna Foley, Board Secretary