

Resolution No.: 2021-11

**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 GEORGE AND
LORI CLINE (H/W) REGARDING PROPERTY LOCATED AT 303 MOODS
ROAD AND BEING FURTHER SHOWN AS BLOCK 6, LOT 20 ON THE TAX
MAPS OF THE TOWNSHIP OF ELK, APPLICATION NO.: ZB-20-11**

WHEREAS, Application No.: ZB-20-11 (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 George and Lori Cline (H/W), (together, the “Applicant”), 303 Moods Road, for bulk variances regarding property located at 303 Moods Road (the “Subject Property”) and being further shown as Block 6 Lot 20 on the Tax Maps of the Township of Elk (the “Township”); and

WHEREAS, the Applicant did appear at a meeting and public hearing held by the Board on the Application on March 17, 2021 at 7:00 P.M., time prevailing, said meeting being held virtually via Zoom due to the Covid-19 pandemic, at which time were the following present: Applicants George and Lori Cline (H/W), Douglas Cline, son of the Applicants, and John P. Ciocco, Esquire, Hoffman & DiMuzio, 515 Woodbury-Glassboro Road, P.O. Box 482, Sewell, N.J. 08080 (the Applicant’s attorney); and

WHEREAS, were Ms. Cline, George Cline and Douglas Cline, 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, the Board’s Professional Engineer, 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, Affidavit of Ownership / Affidavit of Ownership, 200 foot property owners list, Land Development Checklist, Notice of Hearing, Affidavit of Service, and Affidavit of Publication.

B. Review letter on the Application dated January 7, 2021 received from the Board's Planner, Candace Kanaplue, P.P., Bach Associates.

C. Review letter on the Application dated December 28, 2021 received from Stan Bitgood, P.E., Federici & Akin, the Board's Engineer.

D. Plan entitled "Bulk Variance Plan for George & Lori Cline": Township of Elk, Gloucester County, New Jersey" prepared by Stephen Datz, P.L.S., Datz Engineering & Land Surveying, 109 Woodland Avenue, Mullica Hill, N.J. 08062.

E. Letters dated November 25, 2020 outlining the Applicants' request for relief, and February 4, 2021, responding to Ms. Kanaplue's review letter of January 7, 2021, both letters from John Ciocco, Esquire, the Applicants' attorney.

F. Copies of the Elk Township Tax Maps showing the Subject Property.

G. Property Details on the Subject Property from the Elk Township Tax office.

H. Deed on the Subject Property dated August 22, 1985, recorded in the Gloucester County Clerk's Office on August 27, 1985 in Deed Book 1523, beginning at page 1051.

I. An 8 inch by 11 inch color photograph of the Subject Property, fronting on Moods Road (undated).

4. The Subject Property is located within the LD Low Density Residential Zone District which 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 are provided below:

<u>Section</u>	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>	<u>Compliance</u>
96-69D(2)(a) Minimum Lot Size	40,000 sf	53,076.4 sf	53,076.4 sf	Complies

<u>Section</u>	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>	<u>Compliance</u>
98-6D)(3) Minimum Front Yard	40 ft	40 ft.	40 ft	Complies
96-69D(9)(a) Lot frontage min	135 ft.	387.15 ft	387.15 ft	Complies
96-69D.(6)(a) Minimum Width at Bldg. Line	150 ft	392.36 ft	393.36 ft	Complies
96-69D(4) Rear Yard Setback	40 ft.	40 ft	43.36 ft.	Complies
96-69D(5)(a) Min Side Yard (one)	10 ft	> 10 ft	76.5 ft.	Complies
96-69D(5)(b) Min Side Yard (both)	50 ft	> 50 ft	> 50 ft	Complies
96-69D(7) Minimum Lot Depth	200 ft	133.79 ft	133.79 ft	Variance
96-69D(10) Max Bldg. Ht.	35 ft	< 35 ft	<35 ft	Will Comply
96.69D(11) Max. Bldg. Cover	20%	Unknown	< 20%	Will Comply
96-68D(12)(a) Max Impervious for lots standard	25%	Unknown	< 20%	Will Comply
96-80A(5) Accessory Structures Max. SF	900 SF	1,220 SF	1,220 SF	Variance

Notes: “Will Comply” (or else variance required).
“Variance” due to pre-existing condition

5. The Subject Property, as noted above, is located in the Low Density Residential (LD) Zone District and is surrounded by other properties in the LD Zone District. Surrounding properties are residential and agricultural in nature. The Subject Property is directly adjacent to a preserved farm (Block 6, Lot 28.01 QFarm). The Subject Property is also located along the west side of Moods Road, about 1,500 feet south of the intersection of Ewan Road and Moods Road. The Applicants also own 302 Moods Road, which is directly across the street. There is an occupied single-family residence to the north, and qualified farmland to the south and west.

6. The Subject Property currently contains an existing 1,220 sq. ft. pole barn, which the Applicant intends to keep on site and use for the storage of farm equipment, tractor, tools, etc. The maximum permitted size for an accessory structure is 900 square feet. This is a pre-existing condition.

7. Mr. Ciocco stated that the Applicant has lived at their residence at 302 Moods Road since 1985. They raised their family there. Their youngest son, Douglas Cline, now wishes to build a house on the Subject Property, across the street from his parents, to raise his family. The requested variance from the minimum lot depth is due to a pre-existing condition that cannot be cured. Despite not being able to meet the minimum lot depth requirements, no relief as to the total lot size, or any setbacks for the house to be built on the Subject Property, will be required.

8. The Applicant was requesting waivers from submission requirements as follows:

#55 requires the Applicant to provide contours at 20' intervals. Because of the nature of this Application, a waiver is requested based on the simplicity of the Application, and that tighter intervals would not provide information necessary or relevant to the Application.

#67 requires results and location of all percolation tests and borings for an on-site sewerage disposal system. The Applicant complied by providing test and pit locations within 150 ft. on the revised plan. No construction is proposed at this time.

#73 requires the Applicant to submit an LOI regarding wetlands from the NJDEP. The Applicant has requested a waiver. The Applicant has now submitted revised plans including a statement from a licensed PLS regarding wetlands.

WHEREUPON, a motion was made by Board Member Afflerbach, which was seconded by Board Member Nicholson, to grant the above referenced submission waivers, subject to the representations and testimony given by the Applicant as are set forth above, with the following Board members voting in favor of the motion to grant the waivers: White, Poisker, Nicholson, McKeever, Shoultz, Clark, Hughes, Afflerbach, and Richardson (Alternate Member # 1). Board member Swanson (Alternate Member #2) was present and participated in the hearing but did not vote. Board member Schmidt was 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.

9. The Board's Professional Planner, Candace Kanaplue, P.P., reviewed with the Board her letter of January 7, 2021 regarding the Application. Ms. Kanaplue reviewed the nature of the variances requested, existing conditions, and the need for the proposed home to meet all bulk standards or else a variance(s) will be required. The Applicant concurred.

10. 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 December 28, 2020. Mr. Bitgood reviewed the zoning standards, information about the existing pole barn which have been addressed by the Applicant, and additional submissions and changes to the plan, which has also been addressed or will be addressed by the Applicant.

11. 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 bulk variances should be granted on the basis that the bulk requirements will either be met upon construction of the proposed single family dwelling, or cannot be met due to pre-existing conditions. The Board concluded that the positive criteria has been met due to the nature of the use and the associated variances, that said use and accompanying conditions are consistent with the immediate area, and that the use and bulk relief requested will not create a substantial detriment to the Zone Plan, the Master Plan, or the immediate area.

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 amend the plans, if required, and submit such additional information as is requested under Findings of Fact above. The Applicant must also submit requests for all permits and other governmental requirements prior to construction and inspection of the proposed dwelling.

WHEREAS, a motion was made by Board member Afflerbach, which was seconded by Board member White, to grant the above bulk variances to the Applicant, at a meeting following a public hearing held on the Application on March 17, 2021 at 7:00 PM, time prevailing, with the following Board members voting in favor of the motion to grant the approvals: Poisker, Clark, Hughes, Shoultz, White, Nicholson, McKeever, Afflerbach, and Richardson (Alternate Member #1). Board Member Swanson (Alternate Member # 2) participated in the hearing but did not vote. There were no votes in the negative and no abstentions or recusals.

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 April 21, 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 March 17, 2021 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 21st day of April 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 March 17, 2021 on the above cited Application.


ANNA FOLEY, Secretary