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Elk Township Combined Planning and Zoning Board
Regular Business Meeting via Zoom
March 17, 2021 Minutes

Call to Order: meeting called to order at 7:03pm.

Roll Call:

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

Absent: Richard Schmidt

Open Public Meeting Act: was read by the Board Secretary

Flag Salute: Chairperson led the flag salute.

Approval of Minutes:

- **January 20, 2021, Reorganization and Regular Business meeting**

Mr. Afflerbach moved to approve the minutes of January 20, 2021, Seconded by Mr. Hughes. With all other members in favor, *the motion was carried.*

- **February 17, 2021**

Mrs. Nicholson moved to approve the minutes of February 17, 2021, Seconded by Mr. Afflerbach. With all other members in favor, *the motion was carried.*

➤ **Old Business:** None

➤ **New Business:**

- 1) Cline, George & Lori- “Completeness Hearing” regarding waivers requested for Bulk Variance application for minimum lot depth & accessory structure size, 303 Moods Rd, blk 6, lot 20. Application #ZB-20-11

The applicant was represented by attorney, John Ciocco of Hoffman & DiMuzio. George and Lori Cline, 302 Buck Road Douglas Cline, applicant’s son. All were sworn in to provide testimony.

Mr. Ciocco explained the Applicant has lived at their residence since 1985 and own a lot across the street as well. Their youngest son, Douglas Cline, would like to build a house on the property across the street from his parents. This parcel would require two variances, one for minimum lot depth where 133.79 feet exists and 200 feet is permitted (pre-existing condition), and the second variance is for an existing accessory structure of 1220 square feet where 900 square feet is permitted. This is also a pre-existing condition.

Board Planner, Candace Kanaplue, reviewed her letter of January 7, 2021 and for the following completeness items:

#55 requires the Applicant to provide contours at 20' intervals.
Waiver is recommended for completeness but will be required at time of construction.

Board Engineer, Stan Bitgood had no other items for completeness.

Mr. Afflerbach moved to grant the waiver and deem the application complete. Seconded by Mrs. Nicholson.

Roll Call:

Voting in favor:

Afflerbach, Clark, Hughes, McKeever, Nicholson, Poisker, Shultz, White, Richardson

Against: None

Abstain: None

9-0-0

1.a) Cline, George & Lori- "Public Hearing" - Bulk Variances, minimum lot depth & accessory structure size, 303 Moods Rd, blk 6, lot 20. Application #ZB-20-11

Board Planner, Candace Kanaplue, continued with her letter of January 7, 2021:

The parcel is located in the Low Density Residential (LD) Zone District and is surrounded by other properties in the LD Zone. Surrounding properties are residential and agricultural in nature. The parcel is directly adjacent to a preserved farm. The residential use is a permitted use in this zone. The applicant is requesting a variance for an existing non-conforming lot depth of 133.79 feet where 200 feet is required by ordinance section 96-69D(7). The applicant is also requesting a variance for the size of an accessory structure of 1220 square feet where 900 square feet is permitted by ordinance section 96-80A(2). This is an existing structure that the applicant would like to keep.

Mrs. Kanaplue added there is an error in her letter requiring an agricultural buffer. This requirement is not applicable to existing lots.

Mr. Bitgood referred to his letter of December 28, 2020:

Driveways. Dual driveways are not permitted on a residential lot (the proposed plans shows a new driveway). Should the applicant decide on a second driveway, they may appeal to the board for approval of a design waiver.

Right of way. The applicant agrees to comply per comments in Engineer's review letter. By the means agreed upon by the municipal engineer & the governing body.

For the record, Mr. Ciocco stated as for lot depth, the applicant cannot comply as the parcel behind the lot is in farmland preservation and cannot be subdivide. Doug Kline testified that the barn is and will continued to be used for the storage of farm equipment, tractor, tools, etc.

Mrs. Nicholson made a motion to open to the public, Seconded by Mr. Hughes. With no comment from the public, ***Mr. Afflerbach moved to close to the public, seconded by Mr. Poisker.***

Mr. Afflerbach moved to grant the variances condition upon the professionals' review letters and testimony provided. Seconded by Mrs. White.

Roll Call:

Voting in favor:

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

Against: None

Abstain: None

9-0-0

- 2) Mullica Hill, DG (Dollar General), LLC, "Completeness Hearing" for waivers requested. Minor subdivision, Preliminary & Final Site Plan application, 681 Bridgeton Pike, Blk 10, lot 12.03. Application #ZB-20-03

The applicant was represented by attorney Duncan Prime, of Prime & Tuvel. Board attorney, Dale Taylor, announced the applicant would be heard for completeness items only to allow them time to make any necessary adjustments. The public hearing will be carried to the April 21, 2021 agenda. Formal public notice was made for this hearing and this announcement serves as notice for the April 21st meeting. The applicant is not required to re-notice. Further, the board will hold a public portion this evening to give the public an opportunity to comment on completeness items only.

Duncan Prime, Esquire, Prime & Tuvel, 14000 Horizon Way, Suite 325, Mt. Laurel, was present on behalf of the Applicant, Mullica Hill DG, LLC.

Paul Mutch, PE of Stonefield Engineering, 15 Spring Street, Princeton, NJ, was also present.

The following items were reviewed for "completeness" for waivers requested by the applicant. Board Planner, Candace Kanaplue, reviewed her letter of February 23, 2021 and Board Engineer, Stan Bitgood, reviewed his review letter of February 11, 2021:

*Waiver granted as a "conditional waiver" allows the applicant to proceed with the application at this level, but the item is still required to be provided.

#6 Names and addresses of witnesses.

Conditional Waiver for completeness only.

#12 Certification and monumentation required by Map Filing Law, if required.

Conditional Waiver for completeness only.

#19 proposed street names and block and lot numbers.

Conditional Waiver for completeness only.

#33 requires statement demonstrating compliance with affordable requirements.

Conditional Waiver for completeness only.

#46 Existing or proposed right-of-ways and easements with dimensions. Easements are required for stormwater BMPs (Best Management Practice). The Board's engineer recommends a waiver for completeness only.

Conditional Waiver for completeness only.

#52 Method by which common/public open space or commonly held building or structure is to be owned and maintained. (no open space is required. No shared lands or structures are proposed.)

Waiver is recommended.

#53 requires that the Applicant provide information on any structure of historic significance on or within 200 feet of the Subject Property.

Waiver is recommended as the applicant testified there were no historic structures within 500 feet of the Property.

#54 Identification of all abutting land that is currently assessed as qualified farmland.

Conditional Waiver for completeness only.

#60 requires the location, size and direction of flow for all waterways.

Waiver is recommended as there are no such waterways .

#63 Cross sections and center line profiles of all existing or proposed streets or water courses with dimensions at 50 foot intervals.

Conditional Waiver is recommended.

#73 requires the Applicant to submit a NJDEP LOI for wetlands.

Conditional waiver for completeness only.

The Applicant's engineer, Mr. Mutch, testified that an application has been submitted to NJDEP; it appears that a marginal area has been identified. All NJDEP reports will be provided upon receipt by the Applicant.

#79 Municipal Development Agreement between the developer and the municipality for redevelopment, general development plan or other subdivision or site plan where off tract improvements are contemplated.

Waiver is recommended as there are no off-tract improvements therefore a developers agreement is not required.

#80 Barrier free sub code requirements (ADA compliance)

Conditional waiver for completeness only.

#84 Letter containing a list of all items not installed or completed and to be covered by a performance guarantee with quantities and cost of each item and the total cost of all items.

Conditional waiver for completeness only.

*Mrs. Nicholson made a motion to open to the public, seconded by Mr. Hughes. With all members in favor, **the motion was carried.***

The meeting was opened to the public on issues related to completeness items only. The following members of the public were sworn and provided testimony on the Application:

Attorney Robert MacFeeters felt the applicate should be required to re-notice for the April 21st hearing date as the agenda indicated the application would be for the entire application this evening.

Mr. Taylor responded that it was common practice that when notice had already been given, and an application was to be carried to the next monthly meeting, that disclosure of the continuance with date and time was properly given, and did not require a re-noticing, just an announcement of the continuance at the present meeting. This is not unusual with Land Use applications to have two hearings, a completeness hearing and a public hearing regarding the merits of the application.

Victoria Serreino, 429 Mallard Lane

Ms. Serreino stated the applicant should be required to re-notice for the public that could not be present for the meeting tonight. Further, she testified as to a “petition” that had been submitted opposing the Application. The Board’s attorney, Dale T. Taylor, Esquire, stated that no “petition” had been submitted to the Board. But rather a letter had been sent to the Elk Township Mayor (not the Board) along with a list of hundreds of names and addresses, from the local area and around the United States, which seemed to be opposed to Dollar General stores, in general. Mr. Taylor explained that a formal “petition” has to be in the form of a written request to a governmental body with a specific request. A petition has to be signed by the petitioners. What was submitted did not meet the standards of a petition and, even if it did, it was not admissible since under N.J.S.A. 40:55D-10, an applicant has the right to cross-examine objectors, and you can’t cross-examine a petition, or a personal letter to the Board for that matter. Objectors must appear in person. Mr. Taylor stated that many people of the people on the list who live in states outside of New Jersey, unless they have a rational connection to the Subject Property, most likely would lack “standing” in any event, thereby prohibiting from them from testifying.

Michael Cintron, 421 Mallard Lane, HOA President of Meadowbrook Development.

The purpose of the letter was not to say we like or don’t like Dollar General, but rather to give notice to people in the area of the proposed project, to check out the associated links, and to visit the website to view the details for this particular development site. Seventy percent of the people on the list sent to the Mayor were from Elk Township or the Mullica Hill area. The intent of the letter sent to the Mayor was to make her aware that people in the area are not in favor of the project and want to be made aware of what’s going on. Mr. Cintron stated he lives within 250 feet of the site and did not receive a notice. Mr. Taylor explained the statute requires that the applicant must notify people by certified mail within 200 feet. The Board cannot impose a greater standard on the applicant than what is required by the law.

Amy Korsakoff, 433 Mallard Lane,

objected to a continuance as she wanted the Application to be heard at the present hearing for both preliminary and final site plan as advertised, as she took the time to attend the meeting this evening. The Board attorney explained that the Applicant requested additional time to fine-tune their plans prior to a formal hearing and that this is a common request and is generally granted for good cause shown, as was done here.

Joseph Paul, 409 Mallard Lane,

testified that he didn’t completely understand what completeness meant, was against the entire project and has environmental concerns.

Mr. Duncan commented that they received review letters from the Board’s professionals. They will use the additional time to review those comments and will most likely submit revised plans to be in more compliance with township ordinances.

Mr. Citron confirmed with Mr. Duncan that revised plans would be received by the township at least 10 days prior to the April hearing date.

Mr. Afflerbach made a motion to close to the public, seconded by Mr. Shoultz. With all members in favor, *the motion was carried.*

Mrs. Nicholson moved to grant the submission waivers, based on the representations and agreements made by the Applicant, seconded by Mr. Afflerbach.

Roll Call:

Voting in favor:

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

Against: None

Abstain: None

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➤ **General Public Portion**

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

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

Joe Pacera, 157 Bridgeton Pike, Mullica Hill

Mr. Pacera wanted to thank the Board for their volunteer time as board members.

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

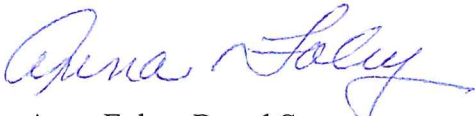
➤ **Correspondence:** None

➤ **Adjournment:**

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

Adjournment time: 8:45 pm

Respectfully submitted,



Anna Foley, Board Secretary