# Resolution No.: 2021 - 14

RESOLUTION OF THE COMBINED PLANNING/ZONING BOARD OF

ADJUSTMENT OF THE TOWNSHIP OF ELK, COUNTY OF GLOUCESTER,

STATE OF NEW JERSEY, GRANTING APPROVAL OF AN APPLICATION FOR A MINOR SUBDIVISION, PRELIMINARY AND FINAL MAJOR SITE PLAN, BULK VARIANCES, AND DESIGN WAIVERS/EXCEPTIONS, TO 

# MULLICA HILL DG, LLC, REGARDING PROPERTY LOCATED AT 681

BRIDGETON PIKE (NJ RT 77), AND BEING FURTHER SHOWN AS BLOCK 10, LOT 12.03 ON THE TAX MAPS OF THE TOWNSHIP OF ELK, APPLICATION NO.: SP-20-08

WHEREAS, Application No.: SP-20-08 (the "Application") was submitted before the Combined Planning/Zoning Board Adjustment of the Township of Elk, County of Gloucester, State of New Jersey (the "Board") by Mullica Hill DG, LLC, ("Dollar General"), c/o CGI) Acquisitions & Development, LLC, 361 Summit Blvd., Suite 1 10, Birmingham, AL 35243 (the "Applicant") for a Minor Subdivision, Preliminary and Final Major Site Plan, Bulk Variances, and Design Waivers, so as to construct a Dollar General retail store on property located at 681 Bridgeton Pike (NJ Rt. 77), (the "Subject Property") and being further shown as Block 10, Lot 12.03, on the Tax Maps of the Township of Elk (the "Township"); and

WHEREAS, THE Application was deemed to be complete by way of the Board's determination of completeness at the Board's March 1 7, 2021 meeting and public hearing held for a completeness determination only; and

WHEREAS, the Applicant did appear at a meeting and public hearing held by the

Board on the Application, said meeting being held virtually via Zoom due to the Covid19 pandemic, on April 21, 2021 at 7:00 P.M., time prevailing, at which time the following were present on behalf of the Applicant: Jason Tuvel, Esquire, Prime & Tuvel, Esquire, 14000 Horizon Way, Suite 325, Mt. Laurel, N.J. (the Applicant's counsel);

Jeffery Martell, P.E., Stonefield Engineering & Design, LLC, 92 Park Avenue,

Rutherford, N.J. 07070, (the Applicant's Civil Engineer); Andrew Villari, P.E., Stonefield Engineering & Design, LLC, (the Applicant's Traffic Engineer), and Creigh

Rahenkamp, P.P., Rahenkamp & Associates, P.O. Box 222, Riverton, N.J., the Applicant's Professional Planner; and

WHEREAS, Messrs. Martell, Villari, and Rahenkamp each testified as to their licensing, credentials and experience in their respective fields, after which, without objection, was each stipulated to be an expert in their respective field, and were qualified to testify as experts on behalf of the Applicant for the purposes of 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 had been deemed to be complete by way of the Board's determination of completeness at the Board's March 17, 2021 meeting and public hearing held for a completeness determination only. Accordingly, the Board had jurisdiction to act on the Application.
2. The Board's professional planner, Steven M. Bach., P.E., R.A., P.P., C.M.E., 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.

1. The Applicant submitted and the Board entered into the record the following:
	* 1. Elk Township Land Development Application for Minor Subdivision,

Preliminary and Final Major Site Plan, Bulk Variances and Design Waivers/Exceptions,

Application Fee, Escrow Agreement, Escrow Deposit, Corporate Disclosure Statement,

Owner's Consent, W-9, Statement of Operations, Certification of Taxes Paid on the

Subject Property, Elk Township Land Development Checklist, Authorization for Contract Purchaser, Corporate Ownership Disclosure Form;

* + 1. Gloucester County Planning Board Site Plan and Subdivision Application, dated 10/19/20;
		2. Checklist Justification memorandum prepared by Stonefield Engineering and Design, LLC, 92 Park Avenue, Rutherford, N.J. 07070, dated October 19, 2020;
		3. Zoning Relief Memorandum, prepared by Stonefield Engineering and Design, LLC, dated October 19, 2020;
		4. Certified Adjoining Property Owners List dated September 14, 2020;
		5. Report of Title on the Subject Property;
		6. Six Colored photographs of the Subject Property, one from an aerial view and five from a ground view, submitted by Stonefield Engineering & Design, LLC, dated 10/19/2020;
		7. Environmental Impact Statement prepared by Stonefield Engineering & Design, LLC, dated Oct. 15, 2020;
		8. Stormwater Management Report prepared by Stonefield Engineering and Design, dated October 14, 2020, revised on 2/3/2021 and last revised on 04-06-2021
		9. Stormwater Operations and Maintenance Manual, prepared by Stonefield Engineering and Design, LLC, dated October 19, 2020 and last revised 04-07-21;
		10. Basin Summary For, dated 04-07-2021, prepared by Stonefield Engineering and Design, LLC, dated 04-07-2021;
		11. Traffic and Parking Assessment Report, prepared by Stonefield Engineering and Design, LLC, dated October 19, 2020;
		12. Color Elevations prepared by Chadha and Associates, dated September 29, 2020;
		13. Survey and Minor Subdivision Plan, prepared by Stonefield Engineering and Design, LLC, dated October 12, 2020;
		14. Land Title Survey prepared by Stonefield Engineering and Design, LLC, dated September 24, 2020;
		15. 200 Foot features exhibit prepared by Stonefield Engineering and Design, LLC, and dated October 14, 2020;
		16. Fifteen-sheet set of drawings entitled "Preliminary and Final Major Site Plan", prepared by Stonefield Engineering and Design, LLC, dated October 14, 2020 and last revised 04-07-2021;
		17. Three sheet set of Drawings entitled "On-Site Wastewater Treatment and Disposal System", prepared by Houser Engineering, LLC, dated 11/20/2020;
		18. Truck Turning Exhibit prepared by Stonefield Engineering and Design, dated 2/3/21;
		19. Gloucester County Fire Marshal's Review Letter (undated);
		20. Gloucester County Soil Conservation District's Review Letter dated December 8, 2020.
		21. Exhibits as follows:

A-I - Aerial Exhibit of the Subject Property;

* 1. - Aerial Exhibit of the site and adjacent properties (existing conditions);
	2. - Site Plan Rendering: 9,100 Sq. Ft. Dollar General store with 30 parking spaces; signage is fully compliant; proposed fencing and agricultural buffer shown;
	3. - Modified Version of Site Plan; lighting described (all LEDs and down-lit); further landscaping and infiltration basin described);
	4. - County Road Access Exhibit (for adjacent vacant lot); sidewalk proposed for the Subject Dollar General Lot and vacant lot, along frontage with Rt. 77;
1. The Board entered into the record the following:
	* 1. Most recent letter dated February 1 1, 2021 from Stan Bitgood, P.E., Federici & Akin, P.A., regarding Mr. Bitgood's review of the Application.
		2. Most recent Letter dated February 23, 2021 from Candace Kanaplue, P.P., Bach Associates, regarding Ms. Kanaplue's second review of the Application.
		3. Memorandum from the Elk Township Environmental Commission to the Board, dated March 1 6, 2021, regarding their review of the Application;
2. The Subject Property is located within the Township's Commercial Highway C-2 Zone District. It is located at the northeast side of the intersection of Elk Road and

Bridgeton Pike (N.J. Rt. 77). Adjacent to the Subject Propelty are residences (the Meadowbrook development) to the east, and a farm to the north. Across Bridgeton Pike from the Subject Property, are residences and farmland. Across Elk Road from the Subject Property are a vacant corner lot, a residence and farmland. The Subject Property consists of 4.11 acres of vacant land, with scattered trees and vegetation.

1. The Applicant proposes to subdivide the Subject Property into two (2) lots, and construct a Dollar General retail store on one of the newly created lots (to the north), with no development plans as of yet for the newly created lot to the south (adjacent to Elk Road).
2. Zoning and Use. C-2 Commercial Highway Zone Bulk Standards:

 Proposed Dollar Proposed

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Section 96-71C(1)Minimum | Required | Existing  | General Parcel  | Vacant Parcel Compliance |
| Lot Size96-71C(2)Min. Front | 2 acres | 4.09 acres | 2 acres |  2.09 acres Complies |
| Yard | 150 ft. | 350.67 ft. | 227 ft. |  166 ft. Complies |

96-77C(3)

Min. Lot

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Depth96-76C(4)Max. Bldg. | 250 ft. | 615.08 ft. | 365 ft. | 362 ft. | Complies |
| Coverage |  | N/A | 10.4% | N/A | Complies |



|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Front Yd. SetBack (interior |  |  |  |  |
| lot/corner lot) 50'/100' | N/A | 122.7' | N/A\* | Complies |



|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Min. Side Yd— interior lot/ |  |  |  |  |
| corner lot) 30'/100' |  | 56. \* | N/A\* | Complies |



|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Rear Yd. SetBack, interior |  |  |  |  |  |
| lot/corner lot |  50   | N/A | 109.2' | N/A\* | Complies |



|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Max Bldg Ht.96-77F offstreet parking buffer from | 35 ' | N/A | 18.5 ft. | N/A\* | Complies |
| street96-47 (MinBuffer to | 10 ft. | N/A | 10 ft. | N/A\* | Complies |
| Residential96-47.1 (2) | 50 ft. | N/A | 50 ft. | N/A\* | Complies |



|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Buffer | 50 ft | N/A | 50 ft. | N/A\* | Complies |
| 96-47.1 (3) | Existing veg. |  | Fence & Tree |  | Waiver/ |
| Ag. Buffer | or double row | N/A | Buffer proposed | N/A\* | Exception |
| Landscaping96-54A off- | evergreens1 space /200 |  |  |  | RequiredVariance |
| Street parking sf GFA (46 |



 (46 spaces)N/A 30 spaces N/A\* Required

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| 96-60E(2) l/street front façade or age; 10% of wall sign facade area or |  |  |  |  |
| 50 sf96-60E(2)Monument \ | N/A | 50.00 sf | N/A\* | Complies |
| or ground sign 16 ft. ht. | N/A | 16 ft. ht. | N/A\* | Complies |

\* Compliance to be determined when future development proposal submitted

1. Mr. Tuvel provided an overview of the Application. Mr. Tuvel stated that the minor subdivision created two new, wholly conforming lots. The crux of the application is with respect the requested site plan approval. The Applicant meets all area and bulk standards. To the extent that what are typically design waivers are deemed to be variances because they are listed under Section 96 of the Zone Code, then such relief is also requested. Mr. Tuvel stated that since the Completeness Hearing on March 17, 2021, the plans have been updated so that there are no bulk variances requested.
2. Mr. Tuvel stated that the Dollar General Store would operate primarily from the hours of 8 AM (and sometimes 7 AM) until 10 PM, seven days a week. There would be approximately 1-2 Tractor Trailer trucks making deliveries during the week. There would be approximately 1-2 "box truck" deliveries daily. There would be 2-4 employees working per shift when the store is open.
3. Mr. Martell reviewed Exhibits A-I through A-5, as are set forth above. Mr. Martell testified that in his professional opinion that there would be no negative impact that the proposed development would have on the adjacent property to the north. Parking is adequate in terms of the number of spaces and are ADA compliant. Mr. Martell reviewed the interior floor plan and the architectural renderings of the exterior of the proposed building. Mr. Martell testified that the HVAC units would be located on the roof behind parapets in the front of the store and, therefore, would not be seen from adjoining properties, customers, or from the street. The trash enclosures would match the materials on the building façade.
4. Mr. Villari testified as to the parking analysis and traffic report. Mr. Villari testified that the traffic counts were used based on standard codes. Dollar General stores are considered a low traffic use; sight distances are acceptable; and parking space sizes meet appropriate standards.
5. Mr. Rahenkamp testified that the proposed use met the Elk Township's 2016 Master Plan objectives, namely, to increase commercial rateables, and the proposed parking is more than adequate. Mr. Rahenkamp testified that the "positive" criteria for the parking variance was met pursuant to 40:55D-2.d. , in that the proposed development does not conflict with adjacent municipalities, the county or the state as a whole; 2-g., in that the proposed development provides sufficient space in an appropriate location for a commercial use; -2.i., in that the proposed use would promote a desirable visual environment through creative development techniques and good civic design; and -

2.m., in that the proposed development makes a more efficient use of the land;

13. Mr. Bach reviewed his letter on the Application to the Board of February 23, 2021, as follows:

Landscape and Buffering:

1. The Applicant should add the required ten foot buffer to commercial at the southern



boundary with proposed Parcel B. The Applicant should provide fencing and landscaping per Section 96-50.B(1). The Applicant requested a design waiver to permit the landscaping and buffering plan as submitted.

1. The Applicant is requesting a waiver from Section 96-50.B(l) Landscaping and

Buffers where at least two of the following are required: Fencing, walls, landscape berm 3 feet high. The Applicant is complying with the ordinance requirements in the rear yard, however a waiver is requested for the side yard adjacent to Block 10 Lot 11.01. The Applicant is providing a fence along this buffer line. The Applicant should provide testimony in support of this waiver request.

1. The Applicant is requesting a waiver from Section 96-50.B(2)(b) Landscaping and Buffers where planting shall be at least three (3) feet in height. The Applicant should provide testimony in support of this waiver request. It appears that all proposed trees are being planted at a minimum of 6 feet within the rear residential buffer.
2. The applicant is requesting a waiver from Section 96-50.1) Street trees. The Applicant should provide testimony in support of this waiver request. We do not recommend the granting of this waiver. The Applicant has added five (5) red maples to the street frontage.

5. The Applicant is requesting a waiver from Section 96-50.E(l) Buffers where yearround visual screening is required and no buffer plantings are proposed along the side yard buffers. Plantings are proposed along the rear yard buffer. The Applicant should provide testimony in support of this waiver request. We do not recommend the granting of this waiver.

1. The Applicant is requesting a waiver from Section 96-50.E(2)(a)[4] Buffers where total height of screening shall be eight (8) feet where no plantings are proposed. The Applicant should provide testimony in support of this waiver request.
2. Foundation plantings should be provided along the building portion fronting the street.
3. The 50' wide agricultural buffer shall be landscaped with appropriate buffering landscape material in accordance with Section 96-47. IB(3). The final landscape design must be reviewed and approved by our office. The Applicant has proposed a fence along this buffer line. The landscaping for the 50' buffer shall be provided along the property line. The Applicant proposed a six-foot chain link fence along the property line, with a tree buffer inside of the fence.
4. The plans shall include low growing landscaping around the base of all pole mounted or monument signs. The Applicant has proposed creeping juniper around the sign. The Board's Planner recommends adding a combination of low-lying planting around the signage. The Applicant agreed to work with the Board's Planner with regarding landscaping around the sign.
5. The Board's engineer recommends the addition of landscaping along the southern property line, towards the rear of the building and basin. The Applicant agreed to work with the Board's Planner in this regard.

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1. Window Signage. If window signage is proposed, the Applicant should add this to the sign package and submit for review. A maximum of one (l) window sign per street frontage is permitted. No more than 25% of the window area can be covered. The Applicant agreed to comply.

14. Mr. Bitgood reviewed his letter on the Application to the Board of February 1 1, 2021, as follows:

Design Waivers/Exceptions:

l . From providing 6 foot tall or 8 foot tall evergreen trees at 6 feet apart on center, in accordance with 96-47.1B(3). The Applicant would like to propose other forms of buffer vegetation. Mr. Bitgood testified that he had no objection to different designs, provided the initial and long term effectiveness is the same.

1. From using the recommended buffer plantings, requiring that buffer area be developed in an aesthetic manner for the primary purpose of screening views and reducing noise penetration pursuant to 96-50A(1). Mr. Bitgood testified that he had no objection to this along lot 11.01 only. Along residential lots to the rear, velY effective buffering should be provided. A second layer of trees has been added along the residential rear.
2. From providing 2 of either walls or fencing in a landscaped area not less than 10 feet wide or a landscaped berm at least three feet high, pursuant to 96-50B(1). Considering the existing terrain, Mr. Bitgood had no objections to not requiring a 3 ft berm, but very effective buffering by vegetation and/or fencing should be provided along the residential lots. A second layer of trees have been added along the residential rear. As to the remainder lot to the south, the board felt that the 10 foot separation was sufficient without the need for additional landscaping or buffering.
3. From providing street trees to be planted at intervals of 40 feet pursuant to 9650D(1)(b), as no street trees are proposed. Mr. Bitgood deferred to the Board's Planner, except to say that any street trees should not obstruct the entrance driveway sight triangles nor the proposed commercial signs. Such obstructions could result in last second attempts by drivers to exit the highway with attendant safety risks.) Street trees have been added, closest to the parking lot so as to not obstruct site triangles and cars passing.

Bulk Variances

96-54 — Off-Street Parking, Loading and Circulation

B.(l) Retail trade and personal service establishments: one space for each 200 square feet of gross floor area. The Applicant proposes 30 parking spaces where the 9, 100 s.f. Dollar General retail store requires a minimum of 46 parking spaces. The Applicant has provided a brief report on traffic and parking demands of similar Dollar General parking demands which supports that 30 spaces will be adequate. The report conforms to general traffic design practice and is acceptable. Testimony was provided regarding the options for increased future parking spaces, in the event that business booms and more than 30 spaces prove necessary.

96-60 — Signs E.(2) Permitted signs in nonresidential districts.

The Applicant proposes a 50.63 s.f. freestanding sign where a maximum of 50 s.f. is allowed. The Applicant has agreed to comply. The Applicant originally proposed the freestanding sign to be 20 feet tall where a maximum of 16 feet is allowed. The Applicant has now agreed to comply with the 16 foot height limit.

Technical Review

1. Plan Information.

1. The owner's signature has been provided on the Consent to Application form. Thereon, the owners name should be printed and the signature dated. In addition: The owners name on the consent form does not match the owners name on the plans and does not match the County Tax Assessor record. This shall be corrected prior to any public hearing. The Applicant has now provided proof of current owner and will comply with all signature requirements.
2. Provide all metes & bounds information either on C-3 and change title to Overall Site Plan & Subdivision Plan, or provide a separate plan of subdivision. P.L.S. must sign & seal. The Applicant will be perfecting the Plan of Subdivision by way of deeds and not plat.

A. The boundary line on the east side of the lot abutting the residential neighborhood is missing the length value. The Applicant agreed to correct.

C. On plan sheet C-3:

A. The bulk requirements table shall be revised to include proposed values for proposed lot B. If no variances are proposed show required minimums as proposed values. The Applicant agreed to comply.

1. Show all lot numbers on plan sheet C-3. The Applicant agreed to comply.
2. The plan should be revised to show and call out existing storm pipes at the stormwater manhole and the intersection of Elk Road and Bridgeton Pike. Type, size, slope, and to where it flows. The Applicant agreed to comply.
3. On plan sheet C-11:

A. Evergreen shrubs or small trees should be added to the agricultural buffer area. The Applicant agreed to comply.

(a) The Applicant states that the proposed fence is adequate enough. Extensive testimony took place between the Applicant and the Board's Planner on this issue.

B. Vegetated swales, or other means of achieving the required 80% pollutant filtration, should be shown for the areas of the site for which runoff will not be conveyed through the basin. The Applicant agreed to comply.

(a) The Stormwater Management Report and the post development plan should include these measures and should document the areas and how the 80% minimum is met for the various discharge locations. The Applicant agreed to comply.

E. Minor markups of the details sheets C-13 and C-14 have been provided to the Engineer for corrections.

1. Affordable Housing: The Applicant shall provide testimony or otherwise confirm that they will comply with any and all applicable requirements regarding affordable housing. The Applicant has acknowledged that they will comply.
2. Bulk requirements: The plans include a table of bulk requirements which is almost satisfactory. Testimony and an exhibit as been entered into the record by the Applicant confirming that parcel B could be developed in accordance with both Elk Township and Gloucester County Land Use requirements and with proper intersection clearances for a standard commercial driveway. The Applicant provided some access and egress locations but will comply with all required standards once Lot B is developed.
3. Curbs. Curbing is proposed around all paved areas and is satisfactory. Curb and sidewalk are recommended from the cross walks at the signalized intersection to the proposed driveway. The walkway could be diagonal toward the building at some point. The Applicant has testified that sidewalks will be provided across the entire front of the Subject Property and the adjacent parcel B.
4. Environmental Report. An Environmental Site Assessment report has been included and is satisfactory.
5. Fences. Fencing is proposed as a part of the agricultural buffer on the north side of the lot. Fencing is not proposed nor required around the stormwater basin. Additional buffer plantings will help keep children and toys from moving into the basin area. The Applicant proposes that the additional residential buffer plantings will deter residents from crossing into the Dollar General property.
6. Grading. The proposed grading of the office parking lot and of the areas adjacent to the buildings appears to be generally satisfactory.
7. Landscaping. Additional landscaping is needed along the agricultural buffer strip in accordance with Elk Township Code section 96-47.1.B.(2). The Applicant proposes that the 6 foot tall fence is adequate to screen vehicular activity. The Board's engineer defers to the Board's Planner for further comments. The Applicant agreed to work with the Board's Planner to address landscaping and fence issues.
8. Lighting. New pole mounted and building wall mounted LED lighting are proposed. The proposed fixtures and the 20 ft mounting poles comply with the Code. The lighting levels shown are generally satisfactory. The Applicant testified that lights would be on approximately 1/2 hour prior to the store opening, and 1/2 hour after the store closes. Limited night lighting will be provided for security purposes during the night. The Applicant will work with the Board's engineer to address all lighting issues.
9. Loading Space. A loading area is proposed at the back of the parking lot in between the building and trash enclosure. The space for loading is about 29 feet in length. The Applicant provided testimony confirming that the loading area is sufficient in size and that it will not hinder access to the loading ramp.
10. Parking. The Applicant has provided 30 spaces for parking where 46 are required due to the size of the proposed building. The Applicant has provided a brief report on traffic and parking demands of similar Dollar General parking demands which supports that 30 spaces will be adequate. The report conforms to general traffic design practice and is acceptable. Testimony was provided regarding the options for increased future parking spaces, in the event that business booms and more than 30 spaces prove necessary. Handicap Parking. The 2 handicapped spaces conform to the ordinance.
11. Pedestrian Access. Access is recommended by sidewalk from the signalized intersection at Elk Road and Bridgeton Pike. A pedestrian ADA access to the public roadway should be shown. The Applicant agreed to comply.
12. Recreation. This is not applicable to a commercial development/use.
13. Sequence. The plans include a single sequence of construction on sheet C-9. Total estimated time is approximately 17 weeks.
14. Sidewalks. Sidewalks and curb are now proposed along Bridgeton Pike from the signalized intersection to the site.
15. Signs. The freestanding sign will now conform with respect to sign area and height.
16. Soil Erosion and Sediment Controls. A copy of the Gloucester Soil Conservation District review letter has been received.
17. Stormwater Management. This project requires stormwater management planning. A detailed stormwater management report has been provided which demonstrates that the design was developed in general compliance with the applicable rules. A few items need to be resolved:
18. Demonstrate that the proposed inlet and pipe leading to the basin will convey the 100 year storm into the basin before the curb inlet closest to the basin, where TC=133.50, overtops. The Applicant agreed to comply.
19. Demonstrate that the discharges will be stable where flow leaves the conduit or spillway erosion protection. The Applicant agreed to comply.
20. Revise the post development plan, and calculations, to indicate the shorter time of concentration flow path for the north east corner of the lot. The contours do not support the extension of the single path for the north east corner of the lot. The contours do not support the extension of the single path to the discharge point near Rt. 77. The Applicant agreed to comply.
21. Show the post and pre-development areas of the northeast corner where a separate overland discharge will occur. Show the discharge values there for the 2, 10 and 100 year storm and that they will be reduced in accordance with stormwater rules. The Applicant agreed to comply.
22. Provide Autocad 2015 or more recent electronic files. The Applicant agreed to comply.
23. Provide Software input files. The Applicant agreed to comply.
24. Provide a Conservation and Stormwater Inspection and Maintenance Easements for all BMP's. The Applicant agreed to comply.

H. Storm Management Facilities Map:

* 1. Limits of deed restriction areas should be shown. The Applicant agreed to comply.
	2. Proposed grass area should be shown for only the grass areas to be constructed and maintained within this development; (un-shade the new lot for future development). The Applicant agreed to comply.
1. Latitudes and longitudes, block and lot numbers for each BMP should be included along with Notes regarding inspection and maintenance requirements. The Applicant agreed to comply.

A.Will be provided in updated Operation & Maintenance Manual on or prior to February 16.

1. Include an agreement to accept responsibility form, to be recorded upon deed, with the Operation and Maintenance Manual.
	1. Will be provided in updated Operation & Maintenance Manual on or prior to February 16.
2. Include a copy of Elk Code section 86-6.F. regarding public nuisance or health hazard and Township notice & costs in the maintenance plan and deeds of restrictions.
	1. Will be provided in updated Operation & Maintenance Manual on or prior to February 16.
3. The stormwater maintenance and operation manual and plan shall be revised to require submission of annual inspection and maintenance reports to the municipal clerk by January 3 1, each year.
	1. Will be provided in updated Operation & Maintenance Manual on or prior to February 16.
4. A stormwater basin design summary sheet should be submitted.
	1. Acknowledged to be provided.
5. A deed restriction with stormwater inspection and maintenance easement document shall be submitted to restrict further development within the drainage area without review and approval of a revised site plan and an approved stormwater management design.
	1. Acknowledged to be provided.
6. The Board's Engineer recommends an amount of $20,000 up front for maintenance guarantee prior to release of the maintenance guarantees required under the Municipal Land Use Law.
	1. Acknowledged by Applicant.

19. Trash enclosure. The proposed trash enclosure is acceptable.

## Recommendations

If the Application is approved, the Applicant shall provide a performance guarantee, maintenance guarantee and inspection escrow to the Township of Elk, in accordance with the Municipal Land Use Law. In addition, all taxes, escrows and other Township fees must be paid in full prior signatures by the Chair and Clerk. Approval should also be contingent on approval from:

Gloucester County Planning Board

Gloucester County Soil Conservation

Gloucester County Fire Marshall

Gloucester County Health/NJDEP

15. The hearing on the Application was opened to the public and the following members of the public were sworn and provided testimony:

1. Joan Adams, Esq., Adams & Collins, Swedesboro, N.J., represented her mother, Mary Sorbello, who owns the adjacent farm property. Ms. Adams supported the Agricultural Buffer and stated that it should be made up of a fence and trees to prevent debris from blowing into the farm field from the Dollar General, and other forms of encroachment (vehicles and/or pedestrians). Ms. Adams also questioned the proposed stormwater management system, the man-made swale, and any chance of water runoff from the Subject Property into the adjacent farm field. Ms. Adams stated that the swale was man-made, and any additional water flow will make the threat of water running into the farm field even worse. Mr. Bitgood responded accordingly, and stated that the stormater basin is designed for a 100 year storm; and that the Township will have a property maintenance agreement with Dollar General which will address all trash and encroachment issues.
2. Jim Mundell, 109 Quail Court, questioned the submission of a "petition" opposed to the Application, which the Board's attorney stated was, in fact, not a

"petition", for various reasons, and was inadmissible in any event. Mr. Munell questioned why Dollar general was allowed, and the Board's attorney stated that it was a permitted use under the commercial zone district in which the Subject Property is located. Mr. Mundell also questioned the tax impact, traffic study, and truck maneuverability on the site.

1. Victoria Serreino, 429 Mallard, raise issues and questions regarding store hours, the potential for crime, the need for a full traffic study, and the impact of the proposed use on wildlife and the environment. Mr. Tuvel stated that a wetlands study was done.
2. Michael Cintron, 421 Mallard, questioned the issue of water runoff from the Subject Property, whether or not the parking study was adequate, and recycling and traffic issues. Each was responded to by the Applicant and the Board's engineer.
3. Mario Lopez. 45 Elk Road, indicated that he had not received a Notice of the Hearing. The Board's attorney indicated that the Affidavit of Service listed all property owners within 200 feet of the Subject Property as having been served notice.

G. Jacqueline Wright, 322 Meadowbrook Drive, questioned whether or not a DOT permit was required. The Board's engineer replied in the affirmative.

### CONCLUSIONS

The Board concluded that the Application should be approved for the following reasons: (A) It represented a permitted use; (B) all engineering and planning reports have been submitted and are either approved as submitted, or the Applicant is required to submit satisfactory amendments to such plans and reports, as a condition of approval; (C) the sole variance required has to do with the number of parking spaces required, and the Applicant has submitted ample testimony setting forth that the "positive" criteria is met in that the proposed number of parking spaces is more than adequate and serves the public safety needs and welfare of people; it provides sufficient space in an appropriate location; it does not conflict with neighboring municipalities; and it promotes a desirable visual environment. The Board also concludes that the "negative" criteria has been met insofar as any "detriment" that might occur would be minimal since the Applicant has alternate plans to increase the availability for parking if needed, and therefore any detriment would certainly not be substantial. With respect to the design waivers / exceptions requested, to the extent that the same is required, the Applicant has agreed to work with the Board's Engineer and, therefore, the granting of same is appropriate. The Board also concludes that issues as to stormwater management, signs, access and egress to the site, and trash, have been addressed satisfactorily and subject to such additional information as is required by the Board 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 ofjustice.
2. At any time after the adoption of this resolution of memorialization, should a party of 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, if said list had been provided to the Applicant by the Township pursuant to N.J.S.A. 40:55D-12.c., and/or publication of the Notice of Public Hearing in this matter, in accordance with law.

1. The relief as granted herein is subject to the discovery of any and all deed or other covenants and/or restrictions upon the Subject Property which had not been known or had not been disclosed to the Board, but which would have had a materially negative impact upon the Board's decision in this matter had they been so known, or so disclosed.
2. 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.
3. 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.
4. The Applicant must obtain any and all other construction or municipal permits, inspections, etc., required with respect to the relief as granted herein.
5. The completeness approval granted herein is subject to the Applicant making amendments to the plans as may have been requested by the Board's professionals, as well as submitting such additional information as requested by the Board's professionals, and compliance with all representations, agreements and consents by the Applicant's professionals, the same being set forth under Findings of Fact above.

WHEREUPON, a motion was made by Board member White to grant approval of the Application, which motion was seconded by Board member Nicholson, with the following members of the Board voting in favor of the motion: Nicholson, Clark, White, Afflerbach, Hughes, Shoultz, Schmidt and Richardson (Alternate # 1). Board Member McKeever voted "No". Board Member Swanson (Alternate # 2) did not vote. Board Member Poisker was absent.

THIS RESOLUTION WAS ADOPTED at a regularly scheduled meeting ofthe

Combined Planning/Zoning Board of Adjustment of the Township of Elk, County of Gloucester, State of New Jersey, on May 19, 2021 as a memorialization of the approval of completeness granted in the above referenced matter by the Board at its regular meeting held on April 21, 2021 on the above referenced Application.

COMBINED PLANNING / ZONING BOARD OF ADJUSTMENT OF THE TOWNSHIP OF ELK

ATTEST: 

By

Secr

ary

# 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 19th day of May 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 April 21, 2021 on the above cited Application.

