

**Resolution No.: 2022 - 13**

**RESOLUTION OF THE COMBINED PLANNING/ZONING BOARD OF ADJUSTMENT OF THE TOWNSHIP OF ELK, COUNTY OF GLOUCESTER, STATE OF NEW JERSEY, GRANTING A MINOR SUBDIVISION AND BULK VARIANCES TO RICHARD AND PATRICIA TAYLOR, (H/W), REGARDING PROPERTY LOCATED AT 364 AND 360 BRIDGETON PIKE (RT. 77) AND BEING FURTHER SHOWN AS BLOCK 5, LOTS 5.03 AND 6, ON THE TAX MAPS OF THE TOWNSHIP OF ELK, APPLICATION NO.: SD-22-03**

**WHEREAS**, Application No.: SD-22-03 (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 Richard and Patricia Taylor (H/W), (together, the “Applicant”) for a Minor Subdivision and bulk variances regarding property located at 364 and 360 Bridgeton Pike (the “Subject Property”) and being further shown as Block 5, Lots 5.02 and 6 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 November 16, 2022 at 7:00 P.M., time prevailing, at which time were the following present: Richard & Patricia Taylor (H/W), (together the “Applicant”); and

**WHEREAS**, the Applicant stated that they were not represented by counsel, or any experts such as a professional engineer, professional planner, or professional land surveyor, and did not wish to have the Board carry the Application to the following meeting in order to have the opportunity to obtain the services of counsel or any experts; and

**WHEREAS**, Mr. And Mrs. Taylor were sworn as to any testimony that they would give in the aforesaid matter;

**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., Bryson & Yates Consulting Engineers, LLC, 307 Greentree Road, Sewell, N.J. 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, Land Development Checklist, site photographs and soil report;

B. Proposed Minor Subdivision Plan prepared by Erik F. Valentine, PLS of Ewing Associates Land Surveyors, dated August 20, 2022.

C. Survey of Premises Prepared by Erik F. Valentine PLS of Ewing Associates Land Surveyors, dated July 13, 2022.

D. Gloucester County Planning Board Subdivision Approval.

E. Attachments to Subdivision Application

F. Review letter on the Application dated November 26, 2019, received from the Board's Planners, Steven M. Bach, P.E., and Candace Kanaplue, P.P., Bach Associates.

G. Review letter on the Application dated October 24, 2019, received from Stan Bitgood, P.E., Federici & Akin, the Board's Engineer.

4. The application and supporting documents submitted by Richard and Patricia Taylor for a minor subdivision (lot line adjustment) is made to increase the size of Lot 6 which is residential lot by taking acreage from Lot 5.03 which is a vacant lot with grass, woodlands and wetlands. Currently, Lot 5.03 consists of a 3.9 acre vacant lot, and Lot 6 consists of a 15,625 sq. ft. area with a single family dwelling and detached garage. The Applicant proposed to adjust the lot line between the two parcels by 28,125 sq. ft. to increase Lot 6 to be 43,750 sq. ft., to replace the existing septic system.

5. The Subject Properties are located within the LD – Low Density Residential Zone District, which permits agricultural uses and buildings, single-family detached dwellings, public parks and accessory uses that are customarily incidental to, and subordinate to, the primary use on the site. The existing residential use on Lot 6 is permitted. The Zoning standards in the LD Zone District, as applied to the Application, are as follows:

Section	Required	Proposed Lot 6	Proposed Remainder Lot 5.03	Compliance
96-69.D(2)(a) Max Lot Size	40,000 sf	43,750 sf (One (1) Acre)	144,751 sf	Complies
96-69.D(3) Min Front yard	40 feet	6.73 feet	40 feet	Lot 6: Preexisting nonconformity  Lot 5.03 Complies
96-69.D(4) Min Rear Yard	40 feet	302.6 feet	40 feet	Complies
96-69.D(5)(a) & (b) Min Side Yard	10 feet one/50 feet both	36.02/95.31	25/50	Complies
96-69.D(6)(a) Min Lot Width at building line	150 feet	125 feet	138.20 feet	Preexisting nonconformity
96-69.D(7) Min lot depth	200 feet	350 feet	1018.5 feet	Complies
96-69.D(9) (a) Min Lot Frontage	135 feet	200 feet	125 feet	Lot 6: Complies  Lot 5.03: Preexisting nonconformity
96-69.D(10) Max height	35 feet	<35 feet	N/A	Complies
96-69.D(11)(a) Max building coverage	20%	4.95%	0%	Complies
96-69.D(12)(a) Max total Impervious	25%	0%	5.64%	Complies

6. The Applicant requested waivers from submission requirements as follows:

**Completeness**

The following checklist items have not been received yet:

Checklist #	Description	Status*
12	Certification per Map Recordation Law	Can be waived.
13	Metes & Bounds Descriptions	Required.
48	Distance along Right-of-Way to nearest intersecting street.	Can be waived
49	Locations of Trees, Tree Masses & Types	Can be waived.
50	Tree Protection Plan	Can be waived.
57	A grading plan.	Can be waived.
58	A Soil Erosion and Sediment Control Plan. (not required)	Can be waived.
59	The location of soil borings.	Can be waived.
67	Results of soil borings & percolation tests	Can be waived.
73	Wetlands Letter of Interpretation or Exempt Certification	Required.
75	Providing a utility plan	Can be waived.
83	Providing existing and proposed curb openings	Can be waived.

**Note:** As no construction is proposed, other than a near-future sanitary disposal field, many items can be waived outright as indicated above. Items 13, and 49 are required but can be a condition of approval. Items 48 & 50, are required and are believed to have been submitted to the Board’s secretary. Item 73 is required and is intended to prevent applications from being approved without confidence that proposed or probable future improvements, will not violate the States freshwater wetlands rules. The future disposal field is much further from the geomap wetlands line, than the maximum transition area required for wetlands. Therefore, this item could be waived. However, if waived and the application is approved, a condition of approval should be imposed as indicated below.

**WHEREUPON**, a motion was made by Board Member Afflerbach, which was seconded by Board Member Shoultz, 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: Lucas, Nicholson, White, Hughes, Clark, Afflerbach, Shoultz, Richardson (Alternate Member # 1) and Swanson (Alternate Member #2). Board members McKeever and Schmidt 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. 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 November 2, 2022 with the Board.

8. The Board’s Professional Engineer, Stan M. Bitgood, P.E., C.M.E., reviewed with the Applicant and the Board, his letter of November 11, 2022, as follows:

1. Application: The application documents are satisfactory.
2. Bulk Requirements: The site is in the LD Low Density Residential District. Both lots are narrow, and lot 5.03 is irregular and deep with probable wetlands encroachments in the rear of the lot. The table of bulk requirements and conformances on the plan is satisfactory. The Applicant’s believe that these

non-conformities are pre-existing, bear no problems, and cannot be easily cured.

3. Agricultural buffers are not required since neither of the adjacent lots are qualified farms.
4. Plat/Plan Requirements:
  - A. The plan is satisfactory and indicates that the lot line adjustment, if approved, will be recorded by deeds.
  - B. If approved, proposed deeds for each new lot and for the Conveyance of part of lot 5.03 to lot 6 shall be submitted for review with legal descriptions, signed, dated, and sealed by the Licensed Surveyor. The Board's engineer and Attorney must first review the deeds prior to recording by the Applicant. The Applicant agreed to comply.
  - C. Curbs. Not proposed or required.
  - D. Grading. No changes are proposed or required. See utilities below.
  - E. Fencing. No changes are proposed or required.
  - F. Landscaping. No changes are proposed or required.
  - G. Lighting. No changes are proposed or required.
  - H. Parking: No changes are proposed or required.
  - I. Photos: Photos of the site were submitted.
  - J. Sidewalks. Not proposed or required.
  - K. Stormwater. No changes are proposed or required.
  - L. Utilities. No changes are proposed or required.
    - 1) A copy of the County Health Department's approved individual sanitary sewage disposal system plans shall be submitted to the Elk Construction Office prior to any construction or changes. The Applicant agreed to comply.
    - 2) The Applicant shall agree to ensure that the limits of disturbances shall be kept at least 5 feet from the property lines, and well outside any required wetlands transition areas. The Applicant agreed to comply.
5. Wetlands: The notes and call outs on the plan suggest there may be wetlands within the proposed lot 5.03. If approved, both new deeds should indicate the following:

- A. "Lot 5.03 may contain wetlands which may be near or larger than the limits shown on the plan and which could have a required transition area of up to 150 feet around the actual wetlands limits. Such transition area could extend well into the proposed lot 6. It is and remains the Owners sole responsibility to obtain from NJDEP approval for any disturbances within a wetlands or a transition area and/or disturbances that might have an effect on such areas. Approval by the Elk Joint Land Use Board has no effect on the State's requirements and does not authorize any disturbances within any transition area, wetlands area, nor any disturbance that could impact such areas." The Applicant agreed to comply.
- B. Either a NJDEP Letter of Interpretation, or a professional's certification in accordance with checklist Item 73, can be submitted to avoid the above condition. The Applicant agreed to comply.
6. Accessory Uses & Structures: None proposed or required.
7. Water supply: An existing well is shown between the dwelling and the future septic field, which is and shall be at least 100 feet from said field. Testimony shall confirm that there are no other wells within 100 feet of the proposed septic field limits. The Applicant agreed to comply.

**Recommendations:**

1. All underlined items should be addressed as indicated.
2. All taxes, escrow fees and other fees must be paid to the Township prior to signatures by the Chairman and Secretary.
3. If approved, the APPROVALS line shall be changed to "Approval was granted by the Elk Planning/Zoning Board with conditions, by resolution \_\_\_\_\_ 2022 memorialized on \_\_\_\_\_."
4. The owners must sign the plan prior to signatures by the Chair and Secretary.
5. If approved, the deeds of the proposed lots, their associated legal descriptions, covenants, all easements, and restrictions of record shall be provided for review and approval. Signed & sealed legal descriptions, once approved by the board's engineer and attorney, shall be the attachments to the deeds used for recording. Transcribed versions shall not be used.
6. If approved, the subdivision must be recorded at the County Clerk's office within 190 days of approval.

The Applicant agreed to comply with all of the above recommendations.

9. 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 a minor subdivision and bulk variances should be granted, subject to the representations made by the Applicant, and the requirements made by the Board. The Board recognizes that the bulk standards that are not being met for Lots 6 and 5.03 pursuant to the zoning table, are pre-existing conditions that cannot be cured. 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.

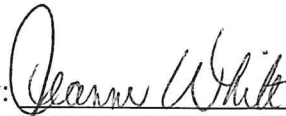
8. The Applicant agrees to perfect the approved subdivision through the recording of deeds, and will submit copies of the deeds to the Board's Engineer for approval as to the legal descriptions in the deeds, and to the Board's attorney for review and approval as to the form of the deeds, prior to recording the same. The Applicant shall record said deeds within 190 days of the adoption of this resolution.

**WHEREAS**, a motion was made by Board member Afflerbach, which was seconded by Board member Shoultz, to grant a Minor Subdivision to the Applicant, at a meeting following a public hearing held on the Application on November 16, 2022 at 7:00 PM, time prevailing, with the following Board members voting in favor of the motion to grant the approvals: Lucas, Clark, Nicholson, Hughes, Shoultz, White, Afflerbach, Richardson (Alternate member # 1) and Swanson (Alternate Member # 2). Board Members McKeever and Schmidt were absent. 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 December, 21, 2022 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 November 16, 2022 on the above referenced Application.



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

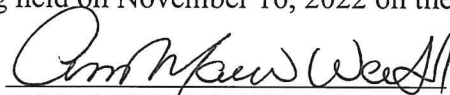
By:   
JEANNE WHITE, Chairperson

ATTEST:

By   
ANN MARIE WEITZEL, 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 December 2022 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 November 16, 2022 on the above cited Application.

  
ANN MARIE WEITZEL, Secretary