

Resolution No.: 2023 - 08

RESOLUTION OF THE COMBINED PLANNING/ZONING BOARD OF ADJUSTMENT OF THE TOWNSHIP OF ELK, COUNTY OF GLOUCESTER, STATE OF NEW JERSEY, GRANTING LOT LINE ADJUSTMENTS AND EASEMENTS BY WAY OF ADMINISTRATIVE RELIEF FOR PHASES I AND III OF A PREVIOUSLY APPROVED PRELIMINARY AND FINAL MAJOR SUBDIVISION AND SITE PLAN APPROVAL TO SILVERGATE ASSOCIATES, REGARDING PROPERTY LOCATED IN THE GENERAL AREA OF BUCK ROAD AND RT. 55, AND BEING FURTHER SHOWN AS THE FINAL PLAN OF LOTS FOR PHASES I & III APPROVED AND SIGNED BY THE TOWNSHIP OF ELK IN JUNE 2007

WHEREAS, the above referenced request for Administrative Relief was submitted before the Combined Planning/Zoning Board of Adjustment of the Township of Elk, County of Gloucester, State of New Jersey (the “Board”), by Silvergate Associates (the “Applicant”) for an Administrative Review of Phases I & III for the purpose of lot line adjustments and easements, regarding a previously approved major subdivision and site plan in the vicinity of Buck Road and Rt. 55, (the “Subject Property”), that had been approved and signed as approved by the Township of Elk in June 2007; and

WHEREAS, the Applicant did appear at a meeting and public hearing held by the Board on the Application on April 19, 2023 at 7:00 P.M., time prevailing, at which time were the following present on behalf of the Applicant: Emily K. Givens, Esquire, Maley & Associates, 1150 Haddon Avenue, Suite 210 Collingswood, New Jersey 08108 (the Applicant’s attorney); Nicholas Casey, P.P., and Vice President of Development, The Quaker Group, 593 Bethlehem Pike, Suite 6A, Montgomeryville, PA 18936 (the Applicant’s Representative and Professional Planner); and Richard J. Clemson, P.E., C.M.E., James Sassano Associates, Inc., 41 South Route 73, Building 1, Suite 201, Hammonton, NJ 08037 (the Applicant’s Professional Engineer); and

WHEREAS, Mr. Casey and Mr. Clemson had previously been stipulated by the Board as experts in the field of professional planning and professional engineering respectively, and the Board did continue to stipulate that both Mr. Casey and Mr. Clemson were entitled to testify on behalf of the Applicant for the purposes of the Application as experts in their respective fields, after which were Messrs. Casey and Clemson 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 Board Deemed the Application complete.
2. The Board's professional planner, Candace Kanaplue, PP, AICP, Bach Associates, PC, 304 White Horse Pike, Haddon Heights, NJ 08035, and the Board's professional engineer, Stan M. Bitgood, P.E., C.M.E., Bryson and Yates, Consulting Engineers, LLC, 307 Greentree Road, Sewell, NJ 08080, were sworn as to any testimony that they would give on behalf of the Board with respect to the Application presently before the Board.
3. The Applicant submitted and the Board entered into the record the following:
 - A. Letter dated February 2, 2023 from Emily Givens, Esq., regarding the Applicant's request for Administrative Relief.
 - B. Letter dated March 8, 2023 from Stan M. Bitgood, P.E., C.M.E., the Board's engineer, regarding his comments as to the Applicant's request for administrative relief regarding Phase 1 Revisions to the proposed Sanitary Sewer Pump Station.
 - C. Letter dated March 8, 2023 from Stan M. Bitgood, P.E., C.M.E., the Board's engineer, regarding Phase 3 revision to the Basin Discharge.
 - D. "Sketch # 1", undated, regarding the sanitary sewer extension plan changes to Sheet 11 of 27 of the Plans of Subdivision.
 - E. "Sketch # 2", dated 08/21/2021, regarding the proposed location of a 12 in. sanitary sewer main and a proposed 12" water main.
 - F. Copies of the previously approved Final Plan of Lots for Phases 1 and 3.
4. By way of background, Planning and site acquisition for the Silvergate Planned Unit Development (PUD) began in the mid-1980s coincident with construction of Route 55. The General Development Plan (GDP) for the overall Silvergate PUD was ultimately approved by the Elk Township Planning Board on April 18, 1996 and consisted of seven (7) phases. The GDP resolution provided that the approval would expire in 16 years, no later than May 16, 2012, and established deadlines for the filing of development applications for the various phases of the development. In 2011 the Applicant applied to the Planning Board for an extension of the vested rights through May 16, 2016 (the full 20 years allowed by Municipal Land Use Law). The Applicant provided information to confirm that the project has been delayed in large part due to factors outside the applicant's control including the stagnant economy, issues with the water and sewer allocations, outside agency approvals, and related litigation. The GDP was extended through May 16, 2016. On February 17, 2016, the Applicant requested a

legal interpretation as to its GDP expiration date by the Planning Board. At the hearing, it was concluded that the correct expiration date was June 17, 2020 (Resolution 2016-10).

5. Silvergate Associates was granted Preliminary and Final Major Subdivision Approvals and Site Plan Approvals for both Phase I and Phase III of its project and has posted performance bonds and filed the necessary Plats with the Gloucester County Clerk's office. Since the time of approval, the utility company servicing the overall project, New Jersey American Water (NJAW) has determined that they will not accept water and/or sanitary sewer lines that contain valves, manholes or other structures within easements along common property lines between residential lots. As a result, it became necessary to make certain revisions to the utility easements that were previously approved by the Elk Township Municipal Utilities Authority, as illustrated on the Final Plats for Silvergate Phase I and Phase III.

6. With regard to Phase I, a sketch has been submitted to the Board which illustrates the lot line adjustments for the lots along Waterview Court. The water and sanitary sewer lines were originally designed and approved to extend within an easement between lots 4.22 and 4.23. NJAW has objected to the lines being installed in an easement between two (2) adjoining residential lots and wants to ensure unobstructed access between the lots in order to access the existing water and sanitary sewer lines that have already been extended across Still Run and through the wetlands and open space to the sleeves under Rt. 55. To address the issue, the Applicant has adjusted the lot lines to provide an extension of the open space (Lot 4), between lots 4.22 and 4.23, to provide direct access to the ROW line of Waterview Court. The Home Owners Association (HOA) will own the Open Space and will have the duty to make sure that no obstructions are permitted within the easement that will be created within the extended Open Space area. The proposed lot line adjustments will not add or delete any residential lots, and all impacted lots will still conform to the zoning standards on which the approvals were based.

7. In regard to Phase III, the Applicant has submitted a sketch which overlays the lot line adjustments to Lots 5.14, 5.15, 5.16 & 5.17, Block 55. The original approved plans had the water and sanitary sewer lines extending along the common property lines between Lots 5.14/5.15 and Lots 5.15/5.16. NJAW objected to the alignment. To resolve the issues, the Applicant proposes to eliminate the previously approved residential building on lot 5.15, and create a Utility ROW in which the water main and sanitary sewer line will be extended parallel within the Utility ROW, and connecting to the existing water and sanitary sewer lines that were previously installed through the sleeves under Rt. 55. The lot lines between lots 5.14/5.15; lots 5.15/5.16; and lots 5.16/5.17 will be realigned to create the Utility ROW illustrated as lot 5.15 and to increase the size of lots 5.14, 5.16 and 5.17.

8. The Applicant and the Board agree that the lot line adjustments are not substantial changes to the approved subdivisions, and therefore they could be reviewed and approved as administrative changes, in consultation with the Board's engineer. The approval by way of an Administrative review will be perfected by way of the Board's

concurrence and a supporting resolution authorizing signing of amended plans or deeds, with plan exhibits acceptable to the Board Engineer attached thereto, which can be filed to perfect the lot line adjustments.

9. Similar to those administrative changes permitted pursuant to N.J.S.A 40:55D-50(a), the requested lot line adjustments are being necessitated by circumstances beyond Silvergate's control and the adjustments will satisfy the utility company which will service the entire development. Silvergate must accommodate this request from NJAW to the greatest extent possible and therefore is making this request for administrative review and approval to the Board.

10. Plans submitted by the Applicant clearly show that the proposed lot line adjustment will not increase the number of building lots and will not create any variance issues for any of those building lots in either Phase I or Phase III. In further support that the lot line adjustments are not substantial changes which would require amended approvals, the lot line adjustments will qualify for an exemption under the new NJDEP stormwater regulations. This determination is based upon the nature of the impact of the proposed lot line adjustments. The lot line adjustments will have a de minimis impact on water resources, which is the requirement for the exemption to remain valid. The lot line adjustments will not result in an adverse impact to water resources that would otherwise be prevented under the new rules. Under the proposed adjustments, no new building lots will be created, nor will there be additional impervious coverage on the building lots. The newly formed lots will merely accommodate the necessary utility policy and requirements and no changes are being made to Phase I or Phase III that would create any new storm water or NJDEP Permit issues.

11. In addition to the foregoing, and in concert with the above requests for administrative relief, NJAW has also requested that the width of the easement between Lots 4.10 and 4.11 on Tarnbrook Circle in Phase I, be widened to provide greater distance between the homes proposed on each of those lots due to the depth of the sanitary sewer line within that easement. The Applicant does not believe that this requires any action by the Planning Board and can be accommodated by Silvergate recording an amended easement, which will be sent to the Board and the Board's engineer for review, prior to execution and recording. NJAW has also requested some minor revisions to the orientation of equipment for Pump Station #1. The plan basically contains the same components, however, the arrangement and layout has changed as a result of other technical requirement of NJAW, which are beyond the control of the developer. Mr. Casey has been reviewing these changes with the Board's engineer, and the Applicant does not believe that they constitute any substantive change.

12 The Board's engineer, Stan M. Bitgood, P.E., reviewed his two letters of March 8, 2023: one as to Silvergate Phase III (Revisions to the Basin Discharge) and one as to Silvergate Phase I (Revisions to the Sanitary Sewer Pump Station), with the Board and the Applicant. The Applicant agreed to comply with the Board engineer's requests and requirements as a condition of approval of the requested Administrative Relief.

13. The Board opened the meeting to the public, at which time no members of the public were present. There being no members of the public providing testimony on the Application, the public portion was closed.

CONCLUSIONS

The Board concluded that the requested administrative changes to the Phase 1 and Phase III portions of the Silvergate development should be approved administratively as they constituted necessary changes for the proper development of the overall property, and neither constituted significant changes, nor substantive relief, that would otherwise require a formal Board hearing.

WHEREUPON, a motion was made by Board Member Afflerbach, which was seconded by Board Member Lucas, to grant the Applicant’s request for administrative changes, as are set forth above, with the following Board members voting in the affirmative: White, Afflerbach, Goetsch, Hughes, Lucas, Nicholson, Richardson, Wolf (Alternate # 1) and Swanson,(Alternate # 2);. There were no abstentions or recusals. The following board members were absent: McKeever and Shoultz.

THIS RESOLUTION WAS ADOPTED by the Combined Planning/Zoning Board of Adjustment of the Township of Elk, County of Gloucester, State of New Jersey, at a regularly scheduled meeting of the same, held by the Board on May 17, 2023 as a memorialization of the action taken by the Board on the above referenced Application at a meeting and public hearing held on April 19, 2016.

JOINT LAND USE BOARD 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, State of New Jersey, held on the 17th day of May 2023 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 19, 2023 on the above cited application.


ANN MARIE WEITZEL, Secretary