



June 13, 2024

Elk Township Planning/Zoning Board
680 Whig Lane
Monroeville, NJ 08343

Attn: Ann Marie Weitzel, Board Secretary

Re: William and Elrene Dabney
517 Empire Way East
Block 29.08 Lot 2
Bulk Variance – Pool and Fence
RE Rural Environmental Residential District
Elk Township Application ZB-24-02
Bach Associates Proj. No. ETPB2024-9

Dear Chairman Afflerbach and Members of the Board:

Our office has received an application for the construction of a pool and miscellaneous site improvements at the above referenced property. Some of these improvements would require bulk variances. We have received the following materials in support of this application:

1. Notice of Appeal (Bulk Variance Application Form) and attachments.
2. Aura Homeowners Associates Application for Exterior Improvement.
3. Letter addressed to William and Elrene Dabney prepared by Aura Homeowners Associates, dated May 2, 2024.
4. Photographs of the property.
5. Plan entitled "Variance Plan, 517 Empire Way East, Block 29.08, Lot 2, Township of Elk, Gloucester County, New Jersey"; prepared by Consulting Engineer Services, dated 5/17/24, no revision.

PROJECT SUMMARY/HISTORY:

The application is to permit the construction of an in-ground pool, deck, concrete walkway and fence in the rear and side yards of a property located on the southwesterly side of Empire Way East within the Aura Community. The subject property is a 6,627 sf lot that currently contains an existing 2 story dwelling, a concrete driveway and associated site improvements.

It shall be noted that the Aura Community was originally planned as an age restricted community and received approval for conversion to a market rate family residential development in 2011 (Resolution 2011-13).

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June 13, 2024
Page 2 of 6

The subject property is located within the RE Rural Environmental Residential zoning district and is surrounded by properties also in the Rural Environmental Residential zoning district. The surrounding properties are residential in nature. The application requires variances from the requirements of the RE zoning district for impervious coverage, side and rear yard swimming pool setbacks as described below.

Bulk requirements were shown on the approved subdivision plans. The approving resolution, 2011-13 also stated, at item 22 under findings of fact and conclusions of law: With regard to accessory structures, the proposed development shall comply with the ordinances in place at the time the construction of these types of structures is undertaken.

The zoning has changed from PAR to RE since the subdivision was approved. Accordingly, and in conformance with the intent of the approving resolution that accessory structures be regulated to comply with the zoning in effect at the time of construction, the RE zoning values should be applied to this application.

COMPLETENESS:

The applicant has submitted the land development checklist. **The application is incomplete.** Most of the waivers are recommended or may be provided as a condition of approval.

- **#20** requires the names of all property owners within 200 feet, as disclosed by the most recent tax records. **Waiver recommended for completeness only.**
- **#41** requires the location of existing wells and septic systems and distances between them, and on adjacent properties where required by the Board. ***Our office has no objection to a waiver being granted for this item.***
- **#53** requires the applicant to indicate any historic structures located within 200 feet of the property. ***Our office has no objection to a waiver being granted for this item.***
- **#55** requires contours at 20ft intervals. ***Our office has no objection to a waiver being granted for this item.***
- **#67** requires the applicant to provide percolation tests and test borings. ***Our office has no objection to a waiver being granted for this item.***
- **#73** requires A letter of Interpretation from the New Jersey Department of Environmental Protection. ***Our office has no objection to a waiver being granted for this item.***

The above items must be provided prior to the Planning Board hearing for the application or waivers granted for the application to be deemed “Complete”. If a waiver is granted for completeness only, the information shall be provided as part of the compliance submission.

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 June 13, 2024
 Page 3 of 6

ZONING

The property is within the RE Rural Environmental Zoning District which permits agricultural uses, single-family dwellings, public parks and playgrounds, and accessory uses that are customarily incidental and subordinate to the primary use on site.

A swimming pool is a permitted use in the zone.

The following table indicates the bulk standards for the lot based on the current RE standards. The zoning standards are provided below.

Section	Required	Existing	Proposed	Compliance
§96-71D(2) Min Lot Size	80,000 sf	6,627	6,627	Existing Condition
§96-71D(3) Min Front Yard Setback	50 ft	22.8	22.8	Existing Condition
§96-71D(4) Min Rear Yard Setback	40 ft	31.1	31.1	Existing Condition
§96-71D.(5) Min Side Yard Setback	20 ft	5.4	5.4	Existing Condition
§96-71D.(5) Min Side Yard Setback (aggregate)	50 ft	15.9	15.9	Existing Condition
§96-71D.(6)(a) Min Width at Building Line	150 ft	60	60	Existing Condition
§96-71D.(7) Min Lot Depth	200 ft	110	110	Existing Condition
§96-71D.(9)(a) Min Lot Frontage	135 ft	60	60	Existing Condition
§96-71D.(10) Max Height	35 ft	<35	<35	Complies
§96-71D.(11)Maximum Building Coverage	15%	30.1%	30.1%	Existing Condition
Resolution #2011-13 Max Impervious	20%	42.5%	56.5%	Variance
§96-81B Swimming Pools Max Rear yard coverage	75%	N/A	43.2%	Complies

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 Page 4 of 6

§96-81B Swimming Pools Min Setback to waterline (Rear)	25 ft	N/A	10	Variance
§96-81B Swimming Pools Min Setback to waterline (Side)	25 ft	N/A	10	Variance

VARIANCES:

1. Impervious Coverage §96-71D(12) - The applicant is proposing an impervious lot coverage of 56.5% where 20% is the maximum lot coverage permitted. *It shall be noted that the existing impervious lot coverage is 42.5%. **A variance is required.***
2. Swimming Pool Side Yard Setback §96-81B(1) - The applicant is proposing a side yard setback of 10' to a swimming pool where 25 feet is the minimum side yard setback permitted for a swimming pool. **A variance is required.**
3. Swimming Pool Rear Yard Setback §96-81B(1) - The applicant is proposing a rear yard setback of 10' to a swimming pool where 25 feet is the minimum rear yard setback permitted for a swimming pool. **A variance is required.**

Standard of Proof for “C” Variances

The applicant must provide testimony to justify the requested variances. For a C(1) variance, the applicant must demonstrate that the strict application of the zoning regulations to the property create a hardship or result in exceptional practical difficulties by reason of the exceptional shape of the property or the exceptional topographic conditions uniquely affecting the property, or the structures lawfully existing upon the property. For a C(2) variance the applicant must show that the proposed variance advances the purposes of municipal land use law and that the benefits of the deviation would substantially outweigh any detriments. The applicant should address whether the proposed variance will substantially impair the intent of the Master Plan or zoning plan and whether there are any potential impacts to the public good.

REVIEW COMMENT(S):

1. The stormwater management basin for the overall development was approved for a maximum impervious coverage of 23% but it was determined that the basin was in fact designed to handle an impervious coverage of 34%. However, the applicant is currently proposing an impervious coverage of 56.5% of his lot which is considerably in excess of the 34% design value.

2. The proposed improvements do not require stormwater management under the NJDEP rules or the Elk Township Code. However, it should be noted that the runoff from this lot, and other lots in the subdivision, is managed by the Homeowners Association which is responsible for the inlets, pipes, stormwater management basins, the outfall, as well as the operation and maintenance of these features.
 - a. Allowing localized pool discharge and splash runoff will likely increase the potential for erosion and increase the silt load to the basins, which could pose problems for the maintenance and operation of the basins.
 - i. Accordingly, if approved, strict erosion control measures must be implemented to include at least silt fence, and protection of the inlet to the rear of the lot until the final grading inspection and as-built survey are approved.
 - ii. The plan shall be revised to show the location of the pool backwash discharge. between 5 and 10 feet of the rear property line and at least 5 feet of the side property line. A popup type discharge is recommended, provided the pipes are also provided with "T" into a suitable below frost line stone pit which can allow the pipe to empty completely so as to prevent freezing.
3. The applicant is proposing a 6 foot PVC fence with locking gate to enclose the back yard. The applicant shall provide testimony that the proposed fence will be self-locking and meet all requirements of §96-81B(2). If approved, the applicant shall submit a fence permit application with all required information, as a pre-requisite to approval of the UCC permits for the pool or otherwise confirm compliance to the satisfaction of the Building Code Official.
4. The Aura Homeowners Association has approved the improvement/modification by their letter of May 2, 2024.
5. The Applicant shall acknowledge in testimony that all existing roadway curbs, sidewalks, and other improvements and surfaces, with in the Right of Way of Empire Way, and within the Open Space to the rear of the lot shall be protected from damage during and after construction. Any and all damage will require a report to the Municipal Engineer and the Homeowners association and either a street opening permit or a lot grading permit, as determined by the Township Engineer by which repair can be authorized and inspected by the Township.

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Page 6 of 6

6. If the bulk variances are approved, our office recommends that a grading application be required as a condition of approval. If the grading plan is approved, at least 14 days prior to requesting a Certificate of Authorization for use of the pool, the applicant shall submit an as-built topographic survey, showing the entire lot and all final contours, corner shots and pool deck elevations, with a request for a grading inspection. The Township Engineer shall issue approval of the final grading prior to any Certificate for use being approved.

Any and all approvals shall be conditioned upon the applicant addressing the above comments and any and all concerns of the Planning Board contained in the approving resolution.

It shall be noted that any requirements noted above as “waived for completeness only” have been waived to allow the application to be deemed complete. These requirements shall be provided as part of the revised application materials unless waived by the Board at the scheduled meeting.

We reserve the option to make additional comments as more information becomes available.

Should there be any questions or if additional information is required, please contact the undersigned at (856) 546-8611.

Very truly yours,
BACH ASSOCIATES, PC



Steven M. Bach, PE, RA, PP, CME
President



Candace Kanaplue, PP, AICP
Associate

Cc: Brian R. Clancy, Esq, Board Solicitor
William and Elrene Dabney, Applicants/Owners
Adam R. Grant, PLS, Applicant' Professional

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