

# Elk Township Planning and Zoning Board Meeting

## Regular Business Meeting

April 20, 2011

### Minutes

**Call to Order:** The Board Chairman called the meeting to order at 7:29 pm.

**Open Public Meeting Act:** read by the Board Secretary

#### **Roll Call:**

**Present:** Frank Goss, Phil Barbaro, David McCreery, Chuck Nicholson, Eugene Shoultz, Wayne Swanson, Jeanne White, Nick. Yovnello, Ed Pearson and Bob Clark

**Absent:** Bill Carter

Also present were the Board's professionals: Leah Furey Bruder, Planner of Bach Associates, Carl Gaskill, Engineer of Fralinger Engineering and Joan Adams, Solicitor.

#### ➤ **Announcements:**

- Notice to Public and Applicants: Board policy is no new business will commence after 10:30 pm and all testimony will stop at 11:00 pm, except for individuals wishing to speak during the general public session.

#### ➤ **Approval of minutes:**

- **March 16, 2011, Regular Business meeting**

*Mr. Shoultz moved to approve the minutes of March 16, 2011. Seconded by Mrs. White.* Phil Barbaro abstained. With all other members in favor, *the motion was carried.*

#### ➤ **Resolutions:**

2011-12- granting minor subdivision approval to John and Wieslawa Dzieniszewski for the real property identified as block 21 lot 5.01 located at 1452 Ferrell Road Elk Township.

*Mr. Shoultz moved to adopt resolution 2011-12, Seconded by Mr. McCreery.*

#### **Roll Call:**

*In favor: Goss, McCreery, Nicholson, Shoultz, Swanson, White, Yovnello*

*Against: None                      Abstain: None                      7-0-0`*

2011-13- resolution approving the conversion of the age restricted project known as Camelot or The Grande at Elk to a market rate project pursuant to NJSA 45:22A-46-3 to applicant, Can2, LLC.

*Mr. Shoultz moved to adopt resolution 2011-13. Seconded by Mr. McCreery.*

#### **Roll Call:**

*In favor: Goss, Nicholson, Shoultz, Swanson, White, Yovnello*

*Against: None                      Abstain: None                      7-0-0`*

#### ➤ **Old Business:** None

#### ➤ **New Business: "Completeness" Hearing:**

**Jeffrey & Janine Rubincam, block 46, lots 5 & 6, 620 and 624 Monroeville Road, minor subdivision Ron Uzdavinis, of Holston, MacDonald Uzdavinis, Ziegler & Lodge, 66 Euclid Street, Woodbury, NJ**

Dale Boston, Professional Land Surveyor and Planner of Boston & Seeberger, 5 Ferry Rd, Pennsville, NJ and the Rubincams were sworn in by Mrs. Adams. Also present were adjacent property owners, William and Lois Miltimore.

Mr. Boston gave his qualifications as a professional land surveyor, Planner and was accepted by the board as an expert.

Mr. Uzdavinis summarized the application is for a subdivision, a lot line adjustment, to accommodate an in ground pool that was placed in an incorrect location.

Mrs. Bruder referred to her letter of March 29, 2011, page 2, for waivers requested as part of the completeness hearing.

The applicant requests waivers from the following submission checklist items:

Item #10 - requires the plan to have signatures of both applicant and land owners.  
*Applicant agrees to comply as a condition of approval.*

Item #50-requirement to provide tree protection plan.  
*Planner recommends a waiver since no specific development is proposed as a result of this subdivision.*

Item #57 – grading plan showing existing and proposed spot elevations in accordance with ordinance section 96-66M.  
*No grading is proposed as a result of this subdivision and a waiver is recommended. Permit were received for the pool, therefore any required grading plan has already been submitted.*

Item # 59 - submit location of soil borings to determine soil suitability.  
*A waiver is recommended as no new construction is anticipated as a result of the minor subdivision.*

Item # 66 and #67 requirement to submit the results of perk tests if the site is served by septic.  
*This site is served by septic but no new development is proposed, therefore the waiver is recommended.*

Item # 73 – requirement to submit an LOI (“Letter of Interpretation”) from NJDEP. A waiver is requested however the applicant has provided a statement from their engineer indicating he has visited the site and conducted a site investigation and has determined that there are no wetlands or transition areas on the property and has reviewed the National Wetlands Inventory Maps. *The planner stated this was sufficient and recommends the waiver.*

Item # 75 – requirement to submit a Utility Plan. A waiver is requested as no additional approvals are proposed as a result of the proposed minor subdivision. *Planner recommends the waiver.*

***Chairman Yovnello moved to grant waivers as requested and recommended by the Board Planner for checklist item numbers 50, 57, 59, 66, 67, 73 and 75 with item #10 granted as a conditional waiver of any approval for the purposes of completeness, thereby deeming the application “complete.” Seconded by Mayor Barbaro.***

***Roll Call:***

***In favor: Goss, Barbaro, McCreery, Nicholson, Shultz, Swanson, White, Yovnello, Pearson***

***Against: None            Abstain: None            9-0-0`***

**Public Hearing:**

**Jeffrey & Janine Rubincam, block 46, lots 5 & 6, 620 and 624 Monroeville Road, minor subdivision**

Mr. Uzdavinis explained Jeff and Janine Rubincam own lot 5 and Mr. & Mrs. Miltimore own lot 6.

The reason for the application is for the location of the in-ground pool. The pool was unintentionally constructed so that it encroaches onto lot 6. The Rubincams have worked out an arrangement with the Miltimores in that they will convey 3,021 square feet to the Rubincams. In connection with this subdivision there are variances requested. They include, minimum lot size, front yard setback, maximum impervious coverage, pool setbacks & fence height in front yard. Some variances are preexisting.

Mr. Uzdavinis submitted a copy of the Rubincam's survey that was marked up by the pool company and submitted to the Elk Twp zoning office for a zoning permit. The survey depicted the pool's location and was marked as Exhibit "A". A plan of preliminary survey was prepared by Boston & Seeberger, dated June 17, 2010, and was marked as Exhibit "B."

Mr. Rubincam testified he discovered his pool was located in the wrong place a year and a half later when his neighbors, the Miltimores, had their property surveyed. The property line is in the middle of the pool. Referring to the exhibit "B," Mr. Uzdavinis pointed out the approved location per the zoning application and where the pool was actually installed. They have yet to determine why the location was changed.

As a result of this error, Mr. Rubincam has negotiated with the Miltimores to purchase a portion of their property. Mr. Uzdavinis submitted a signed contract of sale pending board subdivision approval to Mrs. Adams marked as Exhibit "C." Photos were submitted as part of the application and Mr. Rubincam described each photo.

The Rubincams have owned their house for approximately 7 years and are aware of the farming activity that takes place on adjacent lot 7 and the Right to Farm Act. They did not obtain a survey at the time of purchase. There is a fence on the western side of their property that they believed belonged to their neighbor when actually it is on their property. The fence is 6 ft high where 4 feet is permitted by ordinance in a front yard. The Rubincams request a variance but if necessary, they will remove it or reduce the height to 4 feet. Additionally, the fence encroaches approximately 7 feet into the County ROW and further agrees to remove it if required. Zoning Officer, David McCreery added he preferred the front yard portion of the fence be removed as it is in bad condition. Mr. McCreery will contact Mr. Stubs about the fence on his lot that is falling down.

Dale Boston testified he prepared the plan marked as Exhibit "B" of where the pool was supposed to be located and explained the exhibit, pool location pool encroachment, property lines, a 27 foot wide easement which covers the driveway and extends to the rear property line and the areas from Miltimores to be conveyed to the Rubincams. Mr. Boston explained the variances requested some are due to preexisting conditions.

Variances for Lot 6, Miltimore:

- Minimum lot size, ordinance section 96-71D.(2)(a) - 80, 0000 sq ft is required where 34,759 is proposed
- Front Yard Setback, ordinance section 96-71D.(3)(a) – 50 feet is required where 45.96 is proposed (front porch existing condition)
- Maximum impervious coverage, 96-71D(12) – 20 % is maximum where 23.5 % is proposed

Variances for Lot 5, Rubincam

- Minimum lot size, ordinance section 96-71D.(2)(a) – 80, 0000 sq ft is required where 40,950sq ft is proposed
- Front Yard Setback, ordinance section 96-71D.(3)(a) – 50 feet is required where 56.47 sq ft is proposed (front porch existing condition)
- Maximum impervious coverage, 96-71D(12) – 20 % is maximum where 33.4 % is proposed
- Pool setbacks, ordinance section 96-81B(1) – 25 feet is required where 11.66 feet to rear is proposed
- Fence Height in Front Yard, ordinance section 96-80.1B – 4 feet in front yard is required where 6 feet is proposed.
- Existing shed is setback 8.5 feet from property line where 10 feet is required.

Mr. Boston testified the subdivision with variances could be granted without substantial detriment to the zone plan or zoning ordinances and would not visually impact the adjacent residences or pose a problem to the public health or safety.

An aerial photo of the parcel provided by Mr. Boston was submitted and marked as Exhibit "D." The Rubincams agree to remove any portion of the fence from their front façade out to the county right away and the portion in the ROW which is directly in front of their property.

**Mr. Pearson moved to open to the public, Seconded by Mr. Shoultz.** With all members in favor, *the motion was carried.*

With no comment from the public, **Mr. Pearson moved to close to the public, seconded by Mrs. White.** With all members in favor, *the motion was carried.*

**Mr. Yovnello moved to grant the variances as discussed and outlined above. Seconded by Mr. Pearson.**

**Roll call:**

**In favor: Mr. Goss, Mayor Barbaro, Mr. McCreery, Mr. Nicholson, Mr. Shoultz, Mr. Swanson Mrs. White, Mr. Yovnello, Mr. Pearson**

**Against: None Abstain: None 9-0-0`**

**Mr. Yovnello moved to grant the minor subdivision condition upon subdivision to be perfected by deed, all required outside agency approvals and further condition upon all representation made by testimony and items outlined in planner's letter of March 29, 2011. Seconded by Mr. Pearson.**

**Roll call:**

**In favor: Mr. Goss, Mayor Barbaro, Mr. McCreery, Mr. Nicholson, Mr. Shoultz, Mr. Swanson, Mrs. White, Mr. Yovnello, Mr. Pearson**

**Against: None Abstain: None 9-0-0`**

➤ **General Public Portion**

**Mr. Shoultz moved to open to the public, Seconded by Mr. Pearson..** With all members in favor, *the motion was carried.*

With no comment from the public, **Mr. Shoultz moved to close to the public, seconded by Mr. McCreery.** With all members in favor, *the motion was carried.*

➤ **Correspondence:**

Board received an informal memo from Board Planner, Leah Bruder regarding Lake Gilman. She met with the new Lake President to go over historically what's been going on between the Lake Association and the Township Planning Board. Both will continue to work together in a cooperative process to benefit both parties.

➤ **Adjournment:**

**Mrs. White moved to adjourn, Seconded by Mr. Pearson.**

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

Adjournment time: 8:27 pm



Anna Foley  
Board Secretary