

Elk Township Combined Planning and Zoning Board

Regular Business Meeting

February 17, 2016

Minutes

Call to Order: Board Secretary called the meeting to order at 7:34pm.

Roll Call:

Present: Jay Hughes, Dave McCreery, Ed McKeever, Donna Nicholson,
Ed Poisker Richard Schmidt, Eugene Shoultz, Jeanne White, Frank Goss
Absent: Phil Barbaro, Deborah Penza

Open Public Meeting Act: was read by the Board Secretary

Flag Salute: Secretary led the flag salute.

Swear in Board Professionals: Board Solicitor

Approval of Minutes:

1) **November 18, 2015**

Mr. Hughes moved to approve the minutes of November 18, 2015, Seconded by Mr. Shoultz.

Mrs. Nicholson and Mr. Poisker abstained, with all other members in favor, *the motion was carried.*

2) **December 16, 2015**

Mr. Hughes moved to approve the minutes of December 16, 2015, Seconded by Mr. Shoultz.

Mrs. Nicholson and Mr. Poisker abstained, with all other members in favor, *the motion was carried.*

3) **January 20, 2016**

Mr. Schmidt moved to approve the minutes of January 20, 2016, Seconded by Mr. Hughes.

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

Resolution(s):

2016-07 – resolution memorializing approval of final major subdivision of lands identified as block 29 lots 24.01, 28 and 29, block 32 lots 1-9 on the tax map of the Township of Elk which project is known as Aura II (Sections 1A, 1B, 1C, 3A and 3B only), Application # SD-03-03 to applicant, Aura Development Group, LLC.

Mr. Hughes moved to adopt resolution 2016-07. Seconded by Mr. Shoultz.

Roll Call:

Voting in favor: Hughes, McCreery, McKeever, Schmidt, Shoultz, White

Against: None Abstain: None 6-0-0

IV. Old Business:

Application #ZB-15-09 - James Gaglianone. "D(1)" Use Variance & Site Plan waiver request to permit a change of use for three commercial tenants not permitted in the RE zone, Block 33, lot 12.01, 719 Whig Lane, to applicant James Gaglianone

The Board received a request to postpone this application to the March 16, 2016 meeting. Public Notice is required.

V. New Business:

➤ Administrative Design Change-Request for a de minimis exception for utilities, Block 72, lots 3 & 3.01, Buck Road, to applicant Stephen Ranson, application #AD-16-01

The applicant was represented by attorney Gary Thompson of the firm Ware, Streitz & Thompson located at 10 Pitman Avenue, Pitman, NJ.

The following witnesses were sworn in:

Stephen Ranson, 783 Royal Avenue Franklinville, NJ

John Melleady, builder and “fact witness”, Coal Builders, 101 Idle Lake Rd. Lane, Franklinville, NJ

Board Solicitor, Dale Taylor, explained this is a letter request for a de minimis exception to a prior condition of approval. R.S.I.S. (Residential Site Improvement Standards) require utilities be placed underground instead of overhead as part of a subdivision. Their request is to change a condition of a previously granted Minor Subdivision, to permit overhead utilities (electrical, telephone, cable, etc.), for Block 72, Lots 3 and 3.01 located on Buck Road.

The Board’s engineer had provided a review letter dated January 12, 2016 deeming the application complete.

Mr. Hughes moved the request is not of a significant change and to deem the application complete. Seconded by Mrs. Nicholson

Roll Call:

Voting in favor: Hughes, McCreery, McKeever, Nicholson, Poisker, Schmidt, Shoultz, White, Goss

Against: None Abstain: None 9-0-0

Mr. Thompson provided a brief overview:

In 2012 the board had granted a minor subdivision of block 72, lot 3 to create one new lot, lot 3.01. A variance was also granted for a preexisting nonconforming condition for a front yard setback of the existing home on lot 3 (mother lot). A new home has been constructed on lot 3.01 and is vacant. When the home was constructed, both Mr. Ranson and Mr. Melleady were unaware of the RSIS requirements for utilities, and overheard utilities were provided.

Testimony and photos will be provided confirming that all homes in this neighborhood have overhead utility service, not underground service. When a certificate of occupancy was applied for, only a TCO was given due to the RSIS violation. The applicant apologizes, it was unintentional, and they were not aware of this requirement.

Included with the applicant’s submission, was an email dated October 14, 2015 from John Lago of the DCA (Department of Community Affairs), responding to Board Engineer, Stan Bitgood. Mr. Lago indicated the DCA recognizes this requirement can be costly for small subdivisions and that municipal reviewers can grant a de minimis exception(s) from this requirement.

For the record, Mr. Taylor added that the following exhibits were submitted with the application:

Exhibit A- Resolution No. 2013-10 of the Elk Township Planning Board granting the prior Minor Subdivision, and Variance for Diminished Front Yard, for the Subject Property

Exhibit B- Survey (undated and unsigned) of Subject Property by way of exhibit that had been attached to the prior Application for Minor Subdivision and Bulk Variance approval.

Exhibit C- Copy of an e-mail from John Lago, New Jersey Department of Community Affairs, to the Board's engineer, Mr. Stan Bitgood, regarding Mr. Lago's understanding of *de minimis* exceptions pursuant to NJAC 5:21-3.1.

Exhibit D- Estimate as to the cost to install underground electrical utilities to the Subject Property, owned by the Applicant, from Plasket Technologies, LLC, undated.

Also submitted were four (4) photographs, marked as exhibit A-1, of the adjacent properties all with overhead (not underground) utilities.

Mr. Ranson explained each of the photos testifying that there were no homes in the neighborhood with underground utilities. Mr. Ranson also referenced the submission of Plasket Technology, LLC estimate of the cost that it would take to install underground utilities (\$3,000) and testified that such a cost would create an economic hardship on him.

Board Engineer, Stan Bitgood, referred to his letter of January 12, 2016. Mr. Bitgood had completed a site visit and concurs with the applicant's representation that all the neighboring lots are serviced by overhead utilities and that the cost for underground utilities is expensive. Mr. Bitgood was in favor of granting the *de minimis* exception and that it would not have a negative impact on the neighborhood. He added that should the Board grant the request, the applicant will be responsible to notify the Site Improvement Advisory Board and the DCA (NJ Department of Community Affairs, of the approval of the exception granted by the Board. The applicant was in agreement. Additionally, should the applicant or any successor decide to relocate utilities underground for other reasons, the Township Engineer would need to be notified and an updated as-built survey would be required. Applicant agreed.

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

Mr. Hughes moved to grant the de minimis exception for utilities request. Seconded by Mrs. Nicholson.

Roll Call:

Voting in favor: Hughes, McCreery, McKeever, Nicholson, Poisker, Schmidt, Shultz, White, Goss
Against: None Abstain: None 9-0-0

➤ "Aura Adult" - Presentation by Aura Investors, LLC

John Canuso, Aura Investors, LLC
Michael Canuso, Aura Investors, LLC
Steve Patron, Partner
Robert Swartz, Attorney for Aura Investors

John Canuso appeared before the Board explaining this same presentation, Aura Adult, was given to Township Committee back in October of 2015 and would like to share it with the Planning Board.

The Aura Adult Community will not be the typical active adult community. As we know these types of communities, they are deed restricted, 55 and older and more of a social environment for people. The Aura Adult community will add a component of wellness care and preventive medicine, which no other community in the country has.

Aura Investors has taken title to the balance of Latham Park which already has approvals for 400 plus lots but would like to present another alternative to the Board

Mr. Canuso explained people move from different active adult levels; independent living, assisted living, nursing home, etc. Moving is difficult on the individuals as well as their families. The concept here is an active adult community that ages people in place, adding the wellness component to keep them healthier for longer – “aging in place.”

Here is the concept of an Active Adult Community - Aging in place:

We want to provide an active lifestyle, independence, and a degree of supportive services to meet individual needs. We are adding services in addition to what would be expected from a regular HOA (Home Owner’s Association) such as restaurants, hair salons, physician’s offices, health care offices, nutrition services, pharmacies, banks, veterinarian services and home care services.

Village-We want to create the environment of a Village center with a walkable type community that makes all these services available for the active adult residents as well as the overall community to utilize. Most active adults don’t want to live in a closed out community, they still want to integrate with families, children and neighbors while still having their own private spaces.

There are five component in building this program. They are: Village, Wellness, Health, Homecare, and Dining creating a “Village” that puts it all into one place to service the entire community.

The Village gives an opportunity to create a commercial, walkable center, not just a one big amenity building.

Wellness-is a lifelong pursuit. It comes in many forms, physical, intellectual, emotional, educational, social, cultural, vocational and spiritual. We have met and are working with Rowan University and Kennedy Healthcare about working with them to create wellness programs.

Health-a vision for people to age in place in a home of their choice, supporting independence and ensuring that individuals are safe. Aura Adult living will make concierge medicine available. These are doctors that specialize in internal, holistic and geriatric medicine. These doctors will be on staff on a full time basis. This will be their practice - Concierge Service are doctors at your disposal. Aura Adult residents will be healthier longer & be monitored medically through out their time in the Aura Adult community. Other component parts of health include: aquatic therapy, fitness experts, learning centers, personal trainers, nutritionist, rehabilitation, preventative screening, medical practitioners & nurse practitioners.

Dining – We want to build a series of nice restaurants, with good food, that outside people will come to eat as well. Dining will include casual dining, formal dining, ethnic offerings, coffee shop, ice creamery, food delivery and catering.

Home Care- residents may start out in their 60’s, but as other components of health care are added, we are looking at older segments of residents coming to live in the community (70’s, 80’s). Other components of health care include: healthy home care, in-home care, rehabilitation, physical therapy, occupational therapy, physician series, and care management.

Mrs. White asked who would staff these facilities. Mr. Canuso explained this will be a home owner’s association community. He is the builder and will create the programs. The doctors will be employees of the HOA. The builder will be in charge of the HOA until the time that it is turned over to the residents of the community (the same as any other HOA community).

Mr. Canuso continued that by offering “aging in place”, their hope is that there is very little movement and people will want to stay and “age in place” because of the services they are receiving. Providing this component ensures the success of this type of community because we are offering a service that no one else has. Living in a community that you can be taken care of, health-wise, and live there until you die.

Mrs. White confirmed that the availability of the services mentioned will be part of their HOA fees. Mr Canuso added this is still being worked out. Board Attorney, Dale Taylor suggested the medical facilities be constructed and leased out to the various health care professionals.

The adult village will consist of approximately 1400 units (approximately 350 acres) and the goal is to make these services affordable and to let this be a mechanism to keep seniors from moving out of New Jersey.

Mr. Hughes mentioned Rowan University just sold a piece of land to Inspira for a hospital. He liked the concept presented but felt the term “Concierge service” implied expensive and not for the average person.

Mr. Canuso replied it will cost a little more, but your doctor will meet with you on time and you’ll have the convenience of everything being done at one location in your neighborhood.

The project will also include manmade lakes in the center with trails for recreation connecting neighborhoods (single family homes, apartments, townhomes - the different lifestyles within the active adult community) and to the neighboring Aura Community.

Referring to a Redevelopment slide-

Township Committee is in the process of evaluating properties to be included in a redevelopment area(s). A Redevelopment zone allows flexibility and opportunity to develop an area that doesn’t comport with current zoning without the need to apply for variances.

Fiscal Analysis slide was explained by Steve Patron.

The community will consist of a variety of housing types unlike any other active adult retirement community. This project will function in the center as a town center with commercial on the ground floor and multi-family above it (apartments or condominiums) one and two person households. This will speak to the affordability of the units. The components of a club house will be put on to the main street. The homeowners will not write a check to support the main street like they would for a clubhouse. The users of the commercial space will pay rent. This leaves a lot of money in the HOA to be used for other things- that will need be worked out.

Professional planners, highly proficient in senior housing, have been consulted for this project. The idea is to make the area pedestrian friendly. The highest density will be located along the main street – shops such as coffee, yoga, bagels, etc. The object is to create a multi-product village. As you move away from the main street, the houses get larger, then townhouses. Some units will be rentals and some will be for sale. The larger mass of people need to be up front to make the commercial areas viable.

The existing zone plan (Latham Park) has approval for 477 detached single family homes, 367 school children, on 350 acres with 25 acres of a mixed use area, not yet determined. Municipal tax surplus created is \$284,990. Residents- 1,759

The Aura Adult Redevelopment Plan is 1345 units (apt, TH, SFD) with density on the main street, zero school children, on 350 acres with 50 acres of a mixed use commercial. Municipal tax surplus created is \$3,786,010. Residents- 1832. The amount of residents is almost the same because these are households of 1-2 people.

Municipalities with a designated redevelopment area can provide incentives such as a tax abatement program to make this type of community desirable along with the health component of the community. Affordability will allow people to stay in NJ, near family and friends, rather than moving to another state with lower taxes, such as Delaware.

➤ **Silvergate Associates: Request for Legal interpretation as to the expiration date for a previously granted general development plan (“GDP”)**

Emily Givens, Esquire of the firm, Maley & Associates appeared before the Board on behalf of Silvergate Associates. Ms. Givens submitted a letter brief, dated February 12, 2016, requesting a legal interpretation as to Silvergate’s GDP expiration date.

Board Attorney, Dale Taylor, responded to Ms. Givens in a correspondence dated February 16, 2016. Mr. Taylor’s advised the Board that his legal interpretation is that the correct expiration date of Silvergate’s GDP is June 17, 2020; which is 16-years from the date that the first Phase of Silvergate’s GDP received final approval (which was in 2004).

Mrs. White moved to confirm that Silvergate’s GDP expires on June 17, 2020, seconded by Mrs. Nicholson

Roll Call:

Voting in favor: Hughes, McCreery, McKeever, Nicholson, Poisker, Schmidt, Shoultz, White, Goss

Against: None Abstain: None 9-0-0

➤ **Discussion of Housing Element of the Master Plan and Fair Share Plan, Steve Bach**

Board Planner handed out a draft copy of the proposed amended Master Plan - Housing Element and Fair Share Plan.

Completion of this came as a requirement from a court matter handled by our municipal attorney regarding our affordable housing obligation. Case management conferences have taken place with the Township Solicitor, Brian Duffield, and a requirement is to explore our housing element and fair share plan in accordance with the court’s directive.

The draft contains the town’s demographics, the town’s history with round 1 (1987-1999- Received certification), round 2 (received certification from COAH) and quasi round 3 (which was prepared and submitted to COAH, but never received certification). Round 3 rules have been found twice, to not be valid by the courts. Since then, COAH (Council on Affordable housing) is defunct. The courts have decided COAH is no longer a viable body and the courts will also now be taking on the responsibilities COAH previously had in terms of deeming when a municipality is meeting its affordable housing obligation.

The Fair Share Plan is the municipality’s plan to show we are providing a realistic opportunity for affordable housing to occur and be developed in our town. The Township has no responsibility to build them, make them happen, or invite them, except to make sure that the opportunity is available. Providing the opportunity is done by how you conduct yourself as a land use board, inclusionary housing within developments and to provide appropriate zoning with varying types of housing available.

Someone needs to determine what that obligation should be (number of units). This was the responsibility of COAH (Council on Affordable Housing) to determine that number. COAH had reviewed the submissions made by all the municipalities within the State. But since COAH doesn’t exist anymore, the burden has now been put on the municipality to demonstrate what they think the correct number should be. There are also other interested parties that are putting forth their experts and their numbers of what they think each municipality should provide. Elk is proactive and is part of a consortium of 220 other municipalities that participated in a report prepared by an expert, E-consult, in determining what their affordable housing requirements are. Meaning prior rounds (1987-1999), present needs- right now and the perspective need moving forward within the next ten years. The Fair Share Housing Center has also provided reports from experts on what they think each town’s obligation should be. Some discussion followed as the planner paged through the report.

Having a plan in place, ensures the township that affordable units will be built in the areas planned avoiding a builder's remedy suit (avoiding densely populated affordable housing sections).

General Public Portion

Mr. Hughes moved to open the general public portion, seconded by Mrs. White.

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

With no comment from the public, *Mr. Hughes moved to close the general public portion, seconded by Mr. McKeever.* With all members in favor, *the motion was carried.*

Correspondence:

Correspondence received from Mike Canuso. The resolution of approval for Aura I required the applicant to submit architectural elevations of the model homes. Mr. Canuso supplied drawings for the board and board professionals to review. There were no objections.

Adjournment:

Mr. Goss moved to adjourn, Seconded by Mrs. Nicholson. With all members in favor, *the motion was carried.*

Adjournment time: 9:45pm

Respectfully submitted,



Anna Foley
Board Secretary