

RESOLUTION NO. 2015-17

A RESOLUTION CERTIFYING THE PREEXISTING NON-CONFORMING STATUS OF THE STRUCTURE LOCATED UPON BLOCK 67 LOT 23 COMMONLY KNOWN AS 257 UNION STREET AND CERTIFYING THE PREEXISTING NON-CONFORMING USES OF BLOCK 67 LOT 25 COMMONLY KNOWN AS 251 UNION STREET AND BLOCK 67 LOT 26 COMMONLY KNOWN AS 247 UNION STREET

WHEREAS, the Zoning Board of Elk Township met at its regular meeting on July 15, 2015 and considered the application of Smith Orchards, LLP the owners of property, for a certification of the preexisting nonconforming status of the single family residence located on lands identified as Block 67 Lots 23 on the tax map of the Township of Elk and for the certification of the preexisting nonconforming residential uses of Block 67 Lots 25 and 26 on the tax map of the Township of Elk;

WHEREAS, the Applicant has followed all proper procedures necessary to date of this application for public hearing by the Zoning Board of the Township of Elk, including public notice as required by the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.; and

WHEREAS, the Zoning Board has conducted a public hearing on the application and considered all of the testimony presented at the hearing, all other evidence and Township Ordinances; and

WHEREAS, Steven Smith appeared and provided testimony as well as the Board Planner, Leah Furey Bruder, PP and the Board Engineer, Stan Bitgood, PE; and

WHEREAS, the Board after consideration of the evidence presented by the Applicant, made the following findings:

1. The Applicant, Smith Orchards, LLP, having a mailing address of 212 Fish Pond Road, Sewell, NJ, is a corporation organized under the laws of the State of New Jersey and is the current owner of the lands identified as Block 67 Lot 23 upon the tax map of the Township. The Applicant appears through its attorney, William Ziegler, Esquire.
2. The Applicant, Loring Inc., having a mailing address of 212 Fish Pond Road, Sewell, NJ, is a corporation organized under the laws of the State of New Jersey and is the current owner of the land identified as Block 67 Lot 25 upon the tax map of the Township. The Applicant appears through its attorney, William Ziegler, Esquire.
3. David Smith and Desiree Smith, having a mailing address of 212 Fish Pond Road, Sewell, NJ, are the current owners of the land identified as Block 67 Lot 26 upon the tax map of the Township. David Smith and Desiree Smith have consented to the application.
4. The Zoning Board of Adjustment has jurisdiction to consider this request for Certification that the residential uses of Block 67, lots 23, 25 and 26 existed before the zoning ordinance which rendered the use nonconforming took effect pursuant to the provisions of N.J.S.A. 40:55D-68.
5. In regard to Block 67 Lot 23, Mr. Smith testified that the property which was purchased by Loring, Inc. in 1994 is currently improved with a two-story frame dwelling and the various outbuildings. The property is occupied and utilized as a residential home.
6. In regard to Block 67 Lot 25, Mr. Smith testified that the land was purchased in 2014. At that

time, there was not a house on the property as it had been recently torn down. Applicant's engineer, James Clancy, PE, testified that a 2008 survey of the property shows that a residential home had previously existed on the property. Mr. Smith testified that it was his intention to construct a residential home on the property and that he has never abandoned his plan to continue the use of the property for residential purposes.

7. Board Member Jay Hughes testified that he recalls that there have been two previous houses on the property that had both been destroyed by fires.

8. In regard to Block 67 Lot 26, Mr. Smith testified that he purchased the land in 2006. At that time, there was a house on the property that was in poor condition. As such, Mr. Smith had the structure torn down with the intention of building another home which he would subsequently provide to one of his children. Mr. Smith further testified that at no time did he abandon his plans to utilize the land for residential use for his family. Mr. Smith further testified and presented evidence that the prior home had been built in 1930. Mr. Smith further testified that to his knowledge the property had never been utilized for any other purposes prior to and after his purchase.

9. The Board finds that there is no substantial detriment to the zone plan or the zoning ordinance for the area by the continuation of residential uses for Block 67 Lots 23, 25 and 26 and the Board finds no evidence that the continuation of this use would pose a substantial detriment to the public interest.

10. There was no public opposition to this Application.

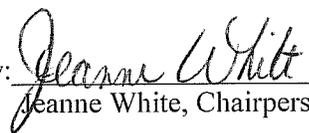
NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Elk acting in its capacity as a Zoning Board of Adjustment that the existence of the residential house on Block 67, Lot 23 is hereby certified to be a preexisting nonconforming use which may continue unchanged as permitted by law, and that Block 67, Lots 25 and 26 are hereby certified to be preexisting nonconforming use which allow for the intended construction of single family residential homes.

Voting in favor: Hughes, McCreery, McKeever, Ratzell, Schmidt, Shoultz, White
Ayes: 7
Nays: 0
Other: 0

ATTEST

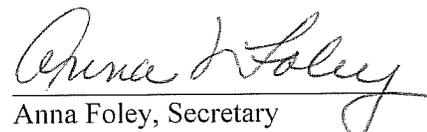
ELK TOWNSHIP PLANNING BOARD

By: 
Anna Foley, Secretary

By: 
Jeanne White, Chairperson

Certification

The undersigned, Secretary of the Planning Board of Elk Township, hereby certifies that the above is a true copy of a resolution adopted by said Board on the 19th day of August, 2015, its decision of July 15, 2015.


Anna Foley, Secretary