

Elk Township Planning and Zoning Board Meeting

Regular Business Meeting

August 17, 2011

Minutes

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

Open Public Meeting Act: read by the Board Secretary

Roll Call:

Present: Phil Barbaro, David McCreery, Chuck Nicholson, Eugene Shoultz, Wayne Swanson, Jeanne White, Ed Pearson

Absent: Bill Carter, Nicholas Yovnello

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

➤ **Announcements:**

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

➤ **Approval of minutes:**

- July 20, 2011, Regular Business meeting

Mr. Shoultz moved to approve the minutes of July 20, 2011. Seconded by Mr. McCreery. Mrs. White, Mr. Nicholson & Mr. Pearson abstained. With all other members in favor, the motion was carried.

➤ **Resolutions:**

2011-16 - resolution approving the application for minor site plan and bulk variance to construct a 3200 square foot pole barn and two picnic pavilions on common property owned by Lake Garrison and identified as block 49 lot 2 and block 45 lot 8.

Mr. Swanson moved to adopt resolution 2011-16, Seconded by Mayor Barbaro..

Roll Call:

In favor: Swanson, Barbaro, Shoultz, McCreery

Against: None Abstain: None 4-0-0`

➤ **Old Business:**

Harry & Serena Holmes, minor subdivision to create one new lot with variances, block 54, lot 26.02, 938 Aura Road.

Continued from May 18, 2011 hearing date and is now at hearing deadline.

Board Secretary confirmed that proper public notice was completed.

David Thatcher, Esquire, 105 N. Black Horse Pike, Runnemede, NJ
Tiffany CuvIELLO, Planner for Applicant, 359 Superior Road, Egg Harbor, NJ

Harry Holmes, 461 Whig Lane Rd, Elk Twp
Serena Holmes, Whig Lane Rd, Elk Twp

Mr. Thatcher summarized Mr. & Mrs. Holmes reside at 461 Whig Lane Road and are before the board for the property located at 938 Aura Road, block 54, lot 26.02. The parcel is just less than 3 acres in size and is in the Rural Environmental Residential district. The application is for a minor subdivision approval to create one new lot for a future single family dwelling. The application requires the following three variances, 1) minimum lot size - required lot size is 80,000 square feet where proposed lot 26.02 is 60,904 sq. ft. and proposed lot 26.03 is 60,414 sq. ft., 2) minimum lot width – required width is 150 feet-proposed lot 26.02 complies and proposed lot 26.03 is 141 feet, 3) minimum front yard setback, required is 50 feet proposed lot 26.02 is 33 feet which is an existing condition because there is already a house there and proposed lot 26.03 will comply.

Mrs. Adams clarified that if the board were to grant the subdivision, there is no guarantee that the lot would be buildable as that would be subject to what the ordinances are and the permits required at the time of building. Applicant understood.

Mrs. Holmes testified she and her husband purchased the property in June of 2006 and the property was in poor condition. The kitchen floor was caved in, front porch was damaged by a fallen tree, the grounds were over grown and there was a lot of debris scattered through the yard. Mrs. Holmes submitted a series of 20 photos on 10 pages of the home & property at the time of their purchase and as it appears today with renovations. The photos were labeled as applicant's #1. Mrs. Holmes explained each before and after photo. A large garage and shed were removed completely as they were in bad condition.

In an effort to obtain additional property to make the lots conforming in size certified letters were mailed to abutting property owners. These letters were labeled as applicants #2 &3. No response was received from property owner Richard Hughes located at block 54, lot 26.01 and the Camp is not permitted to sell any of the land other than to another non-profit organization.

Adjacent to the area to be subdivided is Aura Holiness Camp. At a prior hearing there was a request to add a vegetated buffer to the Camp. The applicant agreed to install a vegetated buffer, 25 feet in width and a minimum of 80 feet in length along the lot line to the camp and further this buffer must be fully installed prior to the issuance of a Certificate of Occupancy for any new construction. Further the applicant agreed to work with the Board Planner to design a buffer that will provide the desired visual screen at that time.

Mrs. Holmes testified the property was purchased for \$138,000 and they have spent \$150,000 renovating it. Currently the home is a rental and has been rented for the past three years. Mrs. Holmes added that at settlement the prior owners' realtor gave them a paper with notes stating what could and could not be done with the property and one of the items indicated they may be able to subdivide. Mrs. Adams asked if the Holmes' were represented by an attorney when they purchased the property and Mrs. Holmes responded, "No."

If the application is approved, Mrs. Holmes stated they would like to build a home for themselves on the new lot. Mrs. Adams again, stated for the record, that any subdivision approval does not guarantee the lot will be a buildable lot and that additional variances may be required to permit a structure to be built on the lot at some time in the future. The applicant confirmed they understood.

To provide justification for the requested variances, Planner, Tiffany CuvIELLO, gave the following testimony: Mrs. CuvIELLO reviewed the application materials, visited the site and neighbor, and reviewed township ordinances and master plan with respect to this application.

Mrs. CuvIELLO repeated the 3 variances requested. The type of variances requested are C variances, bulk variances or C(2) variances. This is where the purposes of municipal land use are advanced and the benefits of granting the variances outweigh any detriments from the requested application.

Mr. McCreery added the lot width variance could be removed if they moved the proposed house back further on the lot. Mrs. Bruder commented that was true but that would require the applicant to clear a substantial amount of trees rather than where they are proposing now, in the front cleared area of the lot. This is something the board will need to take into consideration.

Lot size - prove there is an appropriate population density so she reviewed the surrounding lots in the area and developments to demonstrate to the board that this proposed subdivision with the undersized lot is consistent with not only the intent of the ordinance of the area but is also consistent with the development trends and conditions in the area thus to demonstrate the proposal would be supporting an appropriate population density by virtue of this subdivision. Mrs. CuvIELLO prepared a colorized rendering of the tax map pages 17, 29 & 30 reflecting this and was labeled as applicant #4. Mrs. CuvIELLO explained the map to the board. She explained the maps shows 15 residential lots that are under 1.8 areas. 11 of the 15 lots are undersized and 9 of those lots are less than 1 acre in size. The map also demonstrates approved developments in the area. Directly across the street from the Holmes' lot is the approved PUD (planned unit development) of Silvergate and that upon construction will include 162 single family homes on less than a half acre. The map also shows the existing open space, preserved farmland and township owned property. The purpose of the map is to illustrate that the intensity of development is not going to be any greater than what would otherwise normally be realized in the RE zone. For example the preserved farmland of 137 acres, if not in preservation, could be developed into a number of residential lots because the RE zone allows for cluster development (which means putting your houses up front and preserving the land in the rear, or large pockets of land) which permits a lot size of 40,000 sq ft. Therefore the lot sizes proposed by their subdivision is not out of character for the RE area. An LOI (Letter of Interpretation) for this property states there are no wetlands on the site and none are impacted as a result of this proposal. A map showing all the major approved developments in the township was submitted as an exhibit and was labeled as applicants #5. Mrs. CuvIELLO testified that even though the lots are undersized, the applicant is able to meet and exceed all setback requirements for a single family dwelling. Township ordinance requires a combined side-yard setback of 50 feet with one side not less than 20 feet. The proposal shows a 30 foot side-yard setback from the side of the campground leaving ample room for the vegetated buffer. Anyone living in the area will know there is a camp next door. Mrs. Bruder reminded the applicant that at the last hearing, a representative from the church requested a deed notice be included to any new owner of the lot making them aware that the camp is an active camp. The applicant agreed.

Minimum lot width – 141 feet is proposed. The existing lot is 292 feet wide so it is not possible to subdivide and get 2 150 foot lots. The proposed lot with the existing dwelling will have a width of 151 feet and the new lot will have 141.24 feet, which is 8.8 foot difference and is a diminimis amount, less than 10 percent. The lot is wider in the back of the lot, and narrower at the street width. Some discussion followed as to the measurements on the plan and it is believed there is a typo on the drawing that will have to be corrected. Mr. Thatcher stated it will be corrected.

Lot frontage on lot 26.02. The required front yard set-back is 50 feet and the existing house, which was built in 1938, is set back 33 feet and is an existing condition. A variance is requested for this existing nonconforming condition. This is a condition that would exist whether or not the subdivision is granted or not. It's a condition that exists from the location of the home being built in 1938 and will not be worsened by the board granting the subdivision. In Mrs. CuvIELLO's opinion, the variances could be granted without any substantial impair to the intent of the Master Plan or the zoning plan for this area and further would not be of a substantial detriment to the public welfare.

Mrs. Bruder added that at the last hearing there was discussion that the applicant would not clear cut the lot and would not remove any existing trees other than what was necessary for a building envelope to fit the house on, the septic, the well and the driveway on the lot. The Applicant agreed that any future developer of the lot would not clear the land of trees in an area any greater than 0.78 acres of the new lot and further agreed to include a notice in the subdivision deeds placing any future owners of this lot on notice of this restriction.

Mrs. Bruder referred to her review letter of April 26, 2011 and stated all her items had been addressed with the exception of sidewalk. Mrs. CuvIELLO testified there are no sidewalks in the area. The applicant agreed to a deed disclosure of the ongoing obligation to install public sidewalks along the frontage of the lot if sidewalks are brought to the property lines.

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

For the applicant's knowledge, Mrs. Adams explained that should the board chose to approve the variance and grant the subdivision, there is ordinance in place that limits the life of the variance to 2 years. Therefore, if building permits are not pulled prior to the time of expiration, the undersized variance will lapse and any future development would have to go through this process again.

1) Mrs. White moved to approve the front yard setback variance for lot 26.02, an existing condition, from ordinance section 96-71D(3) where 50 feet is required and 33 feet is proposed. Seconded by Mr. Pearson.

Roll Call:

In favor: Barbaro, McCreery, Nicholson, Shoultz, Swanson, White, Pearson

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

2) Mr. Nicholson moved to approve minimum width at building line, from ordinance section 96-71D(6)(a) for proposed lot 26.03 where 150 feet is required and 141 feet is proposed. Seconded by Mrs. White.

Roll Call:

In favor: Barbaro, McCreery, Nicholson, Shoultz, Swanson, White, Pearson

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

3) Mrs. White moved to approve minimum lot size variances, from ordinance section 96-71D(2)(a) where 80,000 sq ft is required and 60,904.92 sq ft is proposed for proposed lot 26.02 and 60,414 sq ft is proposed for proposed lot 26.03 and conditioned upon all the affirmative representations the applicants made on the record. Seconded by Mr. Pearson.

Roll Call:

In favor: Barbaro, McCreery, Nicholson, Shoultz, Swanson, White, Pearson

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

4) Mrs. White moved to grant minor subdivision approval and subject to all the representations of the applicant and their professionals and the recommendations of the Boards professionals as outlined in their review letters and further condition upon the submission of a corrected subdivision plan and all required outside agency approvals. Seconded by Mr. Nicholson.

Roll Call:

In favor: Barbaro, McCreery, Nicholson, Shoultz, Swanson, White, Pearson

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

➤ New Business:

- Ferrazanno, Daniel & Susan. Block 41, lot 14.01, 786 Elk Road. Completeness hearing for bulk variances for a pole barn.

Addison Bradley, Planner, Landscape Architect 1585, Hider Lane, Gloucester Township
Dan Ferrazzano, 786 Elk Rd., Elk Twp.
Both were sworn in.

Leah Furey, Planner, reviewed her letter dated July 12, 2011. The applicant requests waivers from the following checklist items:

Item 8 – copies of approvals/certifications from all outside agencies with jurisdiction –
The waiver is recommended as this application is for a garage and most likely no outside agency approvals would be required. If any are required, they must comply and would be a condition of any approval.

Item # 11- survey prepared & sealed within the past year.
Complies and Board secretary confirmed a sealed plan is on file.

Item #53 – identification of structures of historical significance.
This waiver is recommended based on the location of the site and the surrounding uses.

Item #55 – requires submission of contours at 20 foot intervals on the tract and within 100 feet in accordance with grading plan ordinance requirements.

Deferred to Board Engineer, as a grading plan is required prior to the issuance of any building permits if the application is approved.

Item 67 - submit all results of percolation test if site is site is served by septic.
Waiver is recommended as no bathroom facilities are proposed.

Item 73 – applicant to provide a Letter of Interpretation from NJDEP or a statement from their engineer or licensed surveyor indicating he has visited the site and conducted a site investigation and whether or not wetlands are present on the site.

The applicant has provided an LOI for adjacent lot 14 showing the wetlands and the wetlands required buffer. Mr. Bradley confirmed that lot 14.01 was also part of the NJDEP's review
Complies.

Mrs. Bruder concluded that from a planning standpoint for the bulk variances, the waivers as previously mentioned are recommended and the application may be deemed “complete.”

Engineer, Carl Gaskill, commented on deferred checklist item #55 - submission of contours at 20 foot intervals on the tract and within 100 feet in accordance with grading plan ordinance requirements.

Mr. Gaskill had no objection to granting the waiver for completeness purposes, as this issue is subject to another ordinance section and is required before building permits can be issued.

In addition, Mr. Gaskill had no technical objection to the engineering waivers requested by the applicant and to the application being deemed “complete.”

Mr. Nicholson moved to grant the waivers as recommended by the Board's professionals as outlined in the Planner's letter of July 12, 2011 and Engineer's letter of August 8, 2011, deeming the application “complete.” Seconded by Mrs. White.

Roll Call:

In favor: Barbaro, McCreery, Nicholson, Shoultz, Swanson, White, Pearson

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

Public Hearing:

Daniel & Susan Ferrazzano, Bulk variance application, Block 41, Lot 14.01, 786 Elk Road

Proper formal public notice was completed.

Mr. Bradley gave the following overview:

The application is for bulk variances to permit the applicant to construct a detached accessory structure to store his collection of antique cars. Two variances are required: 1) size - to permit of 2220 square feet where 900 sq ft is permitted and 2) side yard setback of 15 feet where 20 feet is required. The property is in the RE (Rural Environmental) Residential Zone and is 3.06 acres and is improved with the applicants home.

Mr. Bradley distributed to the Board, architectural drawings of the garage which were labeled as "applicants' #1" for the file. Mr. Bradley explained the garage exterior will have a barn-like character. There will only be front doors to the garage and there will be no other entrance or exit. The exterior of the building will be finished with a stone finish which duplicates the stone finish on their existing house up to the sill level and will have a roof pitch which matches the roof of his home. The garage will have electric only. The applicant is considering having heat in the concrete floor (hot water heat, heated by electric). The building will be one story.

Mr. Bradley explained the reasons for the size & side yard variance and location of the proposed building. Mr. Bradley testified that Mr. Ferrazzano has 8 antique cars to house and further testified that there are wetlands within 200 feet of the proposed structure. The wetlands buffer and the placement of the well, which services the existing home, necessitated the variance for a reduced side yard buffer. Mr. Ferrazzano does have a 3 car garage that houses their personal vehicles.

Mr. Bradley added that the Board planner recommended the applicant install a vegetated buffer along the western property line adjacent to Lot 14.02. The Buffer should be a minimum of 80 feet long and begin at the back of the proposed garage and extend 80 feet to the North. The Applicant agreed and will work with the Board Planner to design the plantings to insure a visual screen.

Mr. Bradley added that a review letter from the Elk Township Environmental Commission, dated July 21, 2011, recommended a tree protection fence be installed during construction. Mr. Bradley asked for clarity and agreed the applicant would install a silt protection fence prior to construction to protect the mature trees and prevent an intrusion into the wetlands area.

Mr. Bradley further added, this proposal would not have any negative impact on the zoning ordinance or master plan as the barn like design keeps in character with the surrounding properties, the size of the property can aesthetically support an accessory structure of this size and further this proposal will not pose a substantial detriment to the public welfare.

Mr. Ferrazzano testified that he intends to use the garage only for the storage of his antique cars. There will be some restoration work on his cars, but he will not run the cars inside the garage. Any work on the cars will be performed only by him or his son. He also testified there will be no storage of cars for any other person and that there will be no public invited to or allowed to use the building and there will be no commercial use of the structure.

Mrs. White inquired if Mr. Ferrazzano was familiar with the proper procedure for fluids and oil disposal. Mr. Ferrazzano explained he has operated an automobile repair shop in Philadelphia for 30 years and is very aware of the procedure. He further testified that he would not perform any aspect of his Philadelphia business in this structure and that he would not "rent" out or "loan" to friends use of this garage and acknowledges that these representations would be a condition of any approval. The applicant understands and agrees that no lifts will be installed, no sanitary drainage features, no pits, no second floor and no habitable space is permitted within the garage. Mr. Ferrazzano is only considering adding a heated floor for climate control purposes.

Mrs. Adams suggested the Board consider, as a condition of any approval, a requirement that the vegetated buffer be recorded on the land record to protect further adjacent property owners. The applicant agrees to install the vegetated buffer

For the record, Mrs. Adams confirmed the applicant is not permitted to conduct any type of sales from the building, no commercial use of the structure. The applicant agreed.

Mayor Barbaro moved to open to the public, Seconded by Mr. Pearson.

With no comment from the public, **Mr. Pearson moved to close to the public, seconded by Mrs. White.**

*Mr. Pearson moved to grant variance approval from ordinance section 96-80A(6) to permit a side yard setback of 15 feet where 20 feet is required. . Applicant agrees to install a vegetated buffer along the western property line adjacent to lot 14.02***Seconded by Mrs. White.**

Roll Call:

In favor: Barbaro, McCreery, Nicholson, Shoultz, Swanson, White, Pearson

Against: None Abstain: None 7-0-0

Mr. Nicholson moved to grant variance approval from ordinance section 96-80A(2) to permit a an accessory structures of 2220 sq ft where 900 sq ft is permitted and further condition upon all required outside agency approval, testimony provided by applicant and all the conditions outlined in the review letters of the board's professionals. Seconded by Mr. Shoultz.

Roll Call:

In favor: Barbaro, McCreery, Nicholson, Shoultz, Swanson, White, Pearson

Against: None Abstain: None 7-0-0

➤ **General Public Portion**

Mayo Barbaro moved to open to the public, Seconded by Shoultz. With all members in favor, the motion was carried.

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

➤ **Correspondence:** none

Mayor Barbaro made the board aware that Township Committee is in the process of reviewing proposals to erect solar arrays on various municipal buildings. Once a final decision is made on the award of a bid, the proposal will be forwarded to the Planning Board for their review.

➤ **Adjournment:**

Mrs. White moved to adjourn, Seconded by Mr. Shoultz.

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

Adjournment time: 9:59 pm

Respectfully submitted,



Anna Foley
Board Secretary