

Resolution No. 2013-18

**RESOLUTION MEMORIALIZING THE APPROVAL OF BULK VARIANCES TO THE
CONSTRUCTION OF A NEW SINGLE FAMILY HOME ON BLOCK 170 LOT 19
COMMONLY KNOWN AS 267 CLAYTON AURA ROAD**

WHEREAS, Belinda Florence, with address of 267 Clayton Aura Road has made application for bulk variances to permit her to demolish the existing home on this nonconforming lot and to rebuild a new residential structure on Block 170 Lot 19; and

WHEREAS, the owners of the property, Mrs. Janet Florence with address of 267 Clayton Aura Road has consented to the application; and

WHEREAS, the Applicant was assisted by her attorney Mr. B. Michael Borelli, Esq. 40 N. Woodbury Road, Pitman, NJ 08071; and

WHEREAS, the Applicant has submitted the following documents in support of its application:

- a) Application to the Combined Planning and Zoning Board dated March 4, 2013, Application for Zoning Permit, Escrow Agreement dated March 5, 2013, Affidavit of Ownership, disclosure statement, confirmation of paid real estate taxes.
- b) Submission Checklist with List of waivers and explanations dated March 5, 2013.
- c) Survey of Clayton-Aura Road dated August 17, 2012 and prepared by Herbert J. Neilio, Sr, LLC.
- d) Deed for Block 117 Lot 10A dated February 15, 1977
- e) List of property owners within 200 feet.
- f) Septic Design Plan for Lot 19, Block 170 prepared by Johnson Design Associates and dated February 5, 2013.
- g) App-1 15 site photos
- h) App-2 10 site photos
- i) App-3 Letters to the adjoining property owners

WHEREAS, the Applicant has complied with all of the requirements to bring this application before the Board and the Board met at public meeting on April 17, 2013 where it took the testimony of the public and the Applicant; and

WHEREAS, the Board carefully considered the reports of its Professional Planner, Ms. Leah Furey Bruder, dated March 19, 2013 which report is attached hereto and incorporated herein

by reference; and

WHEREAS, the Board after consideration of the application, the evidence, the testimony and the representations of the Applicant and the public comment, makes the following factual findings:

1. The existing dwelling was built many years ago on this nonconforming lot and is in disrepair. The owners have owned and resided in this home for over 40 years and wish to demolish the existing home and replace it with a residential structure.

2. The lot is nonconforming, it is undersized. It is approximately 14, 550 square feet where 25,000 square feet are required.

3. The lot is irregularly shaped in a triangular fashion and has no road frontage. Its only access is from a twenty foot wide right of way secured by easement across adjacent properties.

4. The new home will sit 27.6 feet by 46 feet in size and the set back to the rear property line will be at least 35 feet in full compliance with township ordinance.

5. The new home will have side yard setbacks of at least 22 feet where only 10 feet are required.

6. The proposed new dwelling will not increase the existing nonconformities.

7. The Applicant provided proof that they have contacted the adjacent property owners with offers to buy additional land or sell their land and no one replied.

8. The new driveway will be relocated to be positioned only within the existing right of way. It will not be enlarged but will be improved with crushed stone. The Board professionals opined that the driveway is large enough to accommodate emergency vehicles.

9. The exterior storage shed will remain but will be relocated to comply with township ordinances. Only 2 trees will be removed during construction.

10. The maximum building coverage once construction is complete will be no more than 8.8% of the available areas and the maximum impervious coverage will be 13.2%.

11. The Applicant testified that there are no wetlands within 200 feet of any proposed building area.

12. The Board professionals testified that with the exception of this front yard and being placed upon an improved street, the building will continue to meet the yard setback requirements.

13. The Applicant testified that the construction will not impact the existing well and septic on the lot or on the neighbor's lots. The Board was unable to confirm this information by the plans submitted.

14. No member of the public appeared to oppose the application.

15. The Applicant testified that the home is of frame construction and is very old. The Board found that the deviation from the required road frontage was significant, but not so much so, that it left a lot which was inconsistent with the older already developed lots in this neighborhood or such that the lot could not be used as a residential building lot with the imposition of conditions designed to address the public safety issues. The Board found that a grant of this variance could occur without the creation of a substantial detriment to the public good or the zone plan for this area provided that the conditions of approval set forth in this resolution are met. The Board found that on balance the benefits of the improvement to dwelling in terms of modern healthy habitable space outweighed any detriment created by the grant of the variance and granted the bulk variances recognizing the preexisting nonconforming aspects of the lot.

NOW THEREFORE BE IT RESOLVED, by the Planning Board of the Township of Elk that bulk variances to permit the construction of a new residential home on a pre-existing nonconforming lot Block 170 lot 19 shall be **GRANTED UPON THE FOLLOWING CONDITIONS**:

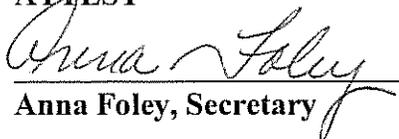
A. The Applicant must revise the plans to comport with the conditions of the approval, the testimony at the time of the public hearing, and the reports of the Board Engineer and the Board Planner prior to the time the final plans are submitted to the Board professionals and the Planning Board for review and signature or if no signature is required prior to the issuance of the building permit for this lot.

B. The Applicant must submit permits from all outside agencies with jurisdiction including but not limited to the Gloucester County Planning Board and all other local, county, state, or other governmental approvals as may be required by any ordinance, regulation, law or statute.

C. The Applicant must pay all escrows, review fees and costs associated with this matter within 7 days of notice of same.

Voting in favor: *Barbar, Carter, McKeever, Nicholson, Shoultz, White Hughes, Goss*

ATTEST


Anna Foley, Secretary

ELK TOWNSHIP PLANNING/ZONING BOARD

 7/17/13
Chuck Nicholson, Chairperson

Certification

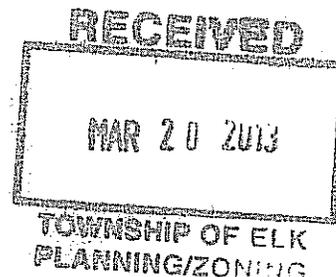
I certify that this is a true copy of the resolution passed by the Elk Township Zoning Board of Adjustment at its regular public meeting on July 17, 2013, its decision of April 17, 2013.


Anna Foley, Secretary



March 19, 2013

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



Attn: Anna Foley, Secretary

Re: Belinda Florence
 Block 170, Lot 19
 267 Clayton Aura Road
 Variance; MD Moderate Density Residential District
 Elk Township ZB-13-01
 Bach Associates Proj. # ET2013-01

Dear Chairman and Members of the Board:

We have reviewed the application and supporting documents submitted by Belinda Florence for bulk variances to permit the replacement of an existing dwelling with a new dwelling on an undersized triangular shaped lot at the above referenced location.

The subject property consists of 14,549 square feet and is located on the northeast side of Clayton-Aura Road within the MD Moderate Density Residential District. The property does not have direct frontage on Clayton Aura Road, but is accessible through a 20 foot wide right-of-way easement on lot 20. The property is surrounded in all directions by other properties also in the MD residential zoning district. Properties to the south (Lots 20 and 20.01) contain single family dwellings with frontage on Clayton-Aura Road, the property to the northeast (lot 21) is wooded with a single family dwelling, and lot 18 to the west, is a farm field owned by Silvergate Associates (proposed to be developed with single family and duplex residential units as part of Silvergate Phase VI). According to the property survey, the lot currently contains a one story brick frame and metal trailer dwelling, a shed and a portion of a driveway.

We have received the following materials in support of this application:

1. Application to the Combined Planning and Zoning Board dated March 4, 2013, Application for Zoning Permit, Escrow Agreement dated March 5, 2013, Affidavit of Ownership, disclosure statement, confirmation of paid real estate taxes.
2. Submission Checklist with List of waivers and explanations dated March 5, 2013.
3. Survey of Clayton-Aura Road dated August 17, 2012 and prepared by Herbert J. Neillio, Sr, LLC.
4. Deed for Block 117 Lot 10A dated February 15, 1977
5. List of property owners within 200 feet.

6. Septic Design Plan for Lot 19, Block 170 prepared by Johnson Design Associates and dated February 5, 2013.

Completeness

The applicant has submitted the submission checklist and has provided sufficient information to review the variance application. **The application is incomplete. Assuming that the applicant can provide the needed information, the application may be scheduled for a completeness hearing.** At the hearing Land Use Board will first consider the waivers and if the waivers are granted, proceed with the variance hearing.

- **#8** requires copies of applications to and certification of approvals from all outside agencies with jurisdiction. *The applicant will require Gloucester County Health Department review and approval for the proposed septic system and well. This may be provided as a condition of any approval.*
- **#35** requires a zoning schedule indicating requirements and proposed setbacks be provided. *The applicant has not provided a zoning schedule; but we have outlined the zoning schedule below. Additional information is needed as set forth in the zoning table. This information should be provided prior to the hearing.*
- **#38** requires photographs of the site be submitted. *The applicant indicates that these will be provided 10 days prior to the scheduled hearing. A waiver is not recommended.*
- **#41** requires that the location of existing wells and septic systems be shown. *The applicant has shown the location of the existing well on the survey and existing septic on the plan. The plan also states that the proposed septic system is greater than 150 feet from each adjacent lot's system. The actual location of wells and septic of neighboring properties are not indicated on the survey or plan. We defer to the Board Engineer for further comment.*
- **#53** requires that the applicant locate any historic structures within 200 feet of the property. *The applicant indicates this is not applicable. A waiver is recommended.*
- **#55** requires 20 foot contours and grading plan in conformance with Section 96-66M. *The applicant requests a waiver from this requirement. This item may be waived for the variance application, however it will be required as a condition of approval. The grading plan will need to be submitted and approved prior to the issuance of building permits.*
- **#67** requires locations and results of all percolation tests and soil borings. *These are not indicated on either plan that was submitted. The applicant should submit this information or request a waiver. We defer to the Board Engineer for further comment.*
- **#73** requires the submission of an LOI from the NJDEP to verify the presence or absence of wetlands and transition areas. *The applicant has requested a waiver because they are not proposing to replace an existing home with a new home. However, the disturbed area will be enlarged. It is recommended that the LOI requirement be waived if the applicant's engineer/surveyor provides a signed statement*

indicating that he has personally visited the subject property and conducted a site investigation as necessary to determine that there are no freshwater wetlands or transition areas on the subject property, that he has examined the property on the national wetlands inventory map, that he has reviewed the soils survey map for the property, and he has certified that there are no freshwater wetlands or transition areas on the subject property.

Variations for “C” Bulk Standards

The MD residential zoning district permits single family dwellings and accessory uses incidental to the principal use. The area and bulk requirements are set forth below.

Section	Required	Proposed	Compliance
96-68.D(2) Lot size	25,000 square feet	14,550 sq ft existing	Variance for Existing Condition
96-68.D(9) Minimum Lot Frontage	75 feet	None exists, 20 foot easement to road	Variance for Existing condition
96-68.D(3) Minimum Front Yard	30 feet	35 feet	Complies
96-68.D(4) Minimum Rear Yard	35 feet	More than 35 feet	Complies
96-68.D(5) Minimum side yard	25 feet aggregate Minimum 10 feet side	22 feet and 23.9 feet	Complies
96-68.D(6) Minimum width at Building line	85 feet	114 feet	Complies
96-68.D(7) Minimum lot depth	100 feet	215 feet	Complies
96-68.D(88) Minimum Building Coverage	30%	Unknown	Applicant Should Provide Information
96-68.D(12)a Maximum impervious for lots under 25,000 sf	40%	Unknown	Applicant Should Provide Information
96-80A(6) Accessory structures Setbacks	Shed under 200 sq ft, set back 10 feet and not in front yard	Proposed Location of Shed Unknown	Applicant Should Provide Information

Standard of Proof for “C” Variations

The applicant must provide testimony to justify the requested variations. 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 variances will substantially impair the intent of the Master Plan or zoning plan and whether there are any potential impacts to the public good.

The following comments are provided for the Board's consideration:

1. **Accessory Structures.** A 100 square foot frame shed is identified on the survey as "to be relocated", however the proposed location of the shed is not shown on the plan. The applicant should provide the proposed location so that the Board may consider whether additional variances may be needed.
2. **Grading Plan.** The applicant should be aware of the requirements of section 96-66M, which requires that a grading plan be submitted for review by the Township engineer for structures more than 600 square feet in area. The purpose is to ensure that the improvements will not result in any adverse impacts on adjacent properties. This may be submitted as a condition of approval prior to the issuance of building permits.
3. **Driveway Access.**
 - a. **Encroachment.** The survey of the property shows the existing driveway as encroaching on to lot 18 to the west, whereas the right-of-way easement is on lot 19 (directly south). The applicant should indicate whether the driveway will be relocated to remain inside the formal right-of-way area.
 - b. **Driveway size and material.** The septic design plan appears to show the driveway within the right-of-way area, but does not indicate the driveway material or the size of the driveway within the subject lot. The driveway must be of sufficient size to meet RSIS parking requirements. Also the driveway does not meet the house. If a garage is proposed then naturally the driveway will connect to the garage. This information should be provided for the impervious coverage calculation.
4. **Trees.** The applicant should indicate whether the construction of the dwelling or septic field requires the removal of any trees.

Please call with any questions. We reserve the option to make additional comments as more information becomes available.

Very truly yours,
BACH Associates, PC



Leah Furey Bruder, PP, AICP

Cc: Joan Adams, Esq
Corey Gaskill, PE
Belinda Florence, Applicant
Janet Florence, Owner
B. Michael Borelli, Esq