

**Township of Wantage
Land Use Board
Resolution for Mark Smolen #L-2025-05
Bulk Variance Relief
Decided on July 15, 2025
Memorialized on January 20, 2026
Relating to Block 12.03, Lot 1**

WHEREAS, Mark Smolen, (the “Applicant”), has applied to the Township of Wantage Land Use Board (the “Board”) for bulk variance relief for property located in the R-5 Zone, which property is commonly known as 57-61 Beaver Run Road and designated as Block 12.03, Lot 1 on the official Tax Map of the Township of Wantage, County of Sussex, State of New Jersey (the “Property” or the “Subject Property”);

WHEREAS, the owners of the property are Timothy and Brenda Loughery who have consented to this application.

WHEREAS, the Applicant is the contract purchaser of the Property;

WHEREAS, the Property is vacant;

WHEREAS, the Applicant intends to construct a single-family home;

WHEREAS, the Applicant is seeking the following variance relief:

A. A bulk variance because the depth of the lot is less than the 200 feet required in the R-5 Zone;

WHEREAS, the application was considered at a duly noticed public meeting held on July 15, 2025, during which the Board reviewed and considered all of the documentary evidence submitted by the Applicant, the comments of the Board Engineer, the witnesses presented by the Applicant and the comments from the public, if any, from which the Board makes the factual findings and conclusions set forth below;

WHEREAS, the Land Use Board has also considered all testimony, reports, exhibits, and other evidence submitted in connection with the application;

WHEREAS, service of adjoiners, if required, and proof of publication has been prepared, served and filed by the applicant in conformity with N.J.S.A. 40:55D-12;

WHEREAS, the Board considered the Applicant’s bulk variance relief as depicted in the following plans:

Septic System Design / Plot Plan 57-61 Beaver Run Road, Block 12.03, Lot 1, Township of Wantage, Sussex County, New Jersey, prepared by George Gloede, Jr., dated February 12, 2025;

WHEREAS, testimony was presented to the Board by the Applicant;

WHEREAS, no members of the public offered testimony;

WHEREAS, the Board has made the following findings and conclusions based upon the evidence submitted:

.. The Applicant is the contracted purchaser of the Property and the owners have consented to this application. The Applicant has standing to bring this matter before the Board.

2. The Subject Property is located on the west side of Beaver Run Road. The Subject Property is located in the R-5 Zone and is currently vacant. The Applicant intends to construct a three-bedroom, single-family house on the subject Property.

3. The Subject Property is considered non-conforming in the R-5 Zone as the zone requires a minimum lot size of 5 acres whereas the existing lot is only 1.33 acres. In accordance with Section 13-15.5A of the Wantage Zoning Ordinance, unimproved nonconforming lots in this zone of at least 1 acre in size may be developed as long certain bulk requirements are met. The existing lot and the proposed home to be constructed will meet all such requirements except for lot depth. The depth of the property varies across its width ranging from 126.30 feet to 188.35 feet. The R-5 Zone requires that the depth of the lot be 200 feet. The proposed house will meet all applicable bulk standards in the Zone.

4. A bulk variance requires the Applicant to demonstrate that a deviation from the Ordinance's bulk standards are justified pursuant to N.J.S.A. 40:55D-70c. The Applicant may seek relief from an Ordinance's bulk standards by demonstrating a hardship in complying with the standards as a result of the physical features of the property such as exceptional narrowness, shallowness, shape or exceptional topographic conditions affecting the property pursuant to N.J.S.A. 40:55D-70c(1). The Applicant may also justify the relief by demonstrating that the purposes of the MLUL would be advanced by the proposed deviation and the benefits of the deviation outweigh the detriments to the public good pursuant to N.J.S.A. 40:55D-70c(2). Lastly, the granting of the variance cannot cause substantial detriment to the public good or substantially impair the intent and purpose of the zoning plan and zoning ordinances.

5. The Board found granting the requested bulk variances was appropriate pursuant to N.J.S.A. 40:55D-70c(1). The existing dimensions of the lot present a hardship as the lot is simply not as deep as the Zone requires. Nonetheless, will permit the construction of a house that is compliant with all bulk standards. The Board found that there would be no substantial detriment to the public good or adjacent properties by the granting of the variance.

Lastly, the Board found the granting of the variances would not cause substantial detriment to the public good or substantially impair the intent and purpose of the zoning plan and zoning ordinances.

6. Subject to the conditions of this resolution, the Applicant meets the requirements for bulk variance relief.

NOW, THEREFORE, BE IT RESOLVED, that the application of Mark Smolen for bulk variance relief be and is hereby granted subject to the following conditions:

1. Applicant shall comply with all applicable Municipal, County, State and Federal laws, ordinances, regulations and directives, including without limitation, obtaining all applicable local, state and federal approvals and/or permits.

2. If another governmental entity or agency grants a waiver or variance affecting this approval or the conditions attached to it, then the Applicant shall notify or apply to this Board and this Board shall have the right to view that issue as it relates to this approval and these conditions and modify and amend the same, if appropriate.

3. In the event the Applicant or its successors or assigns construct or attempt to construct any improvement, use or operate the property, or take any action, which construction, use, operation, or action is in violation of or in conflict with the terms of this approval, or if the Applicant or its successors or assigns omit to take any action required by the terms of this approval, the Board hereby reserves the right to withdraw the instant approval and any variances granted hereby. In the event that any other required regulatory approval conflicts with the terms and conditions hereof, or materially alters the same, or the terms and conditions hereof are materially altered by any change in applicable law or regulation other than those municipal regulations for which change is prohibited by the Municipal Land Use Law (MLUL), the plans approved by the Board shall not be signed and no permits or certificates for construction of the project will be issued until the Applicant applies for and receives an amended approval from the Board.

4. The Applicant shall recycle all material as required by local ordinance both during construction and for the duration of occupancy.

5. All construction, use and development of the property shall be in conformance with the plans approved herein, all representations of the Applicant and its witnesses during the public hearing, and all terms and conditions of this resolution, all of which have been relied upon by the Board in rendering its decision. The Applicant shall be bound to comply with the representations made before this Board by the Applicant and its professionals and the conditions imposed by the Board at the public hearing and the same are incorporated herein and are representations upon which this Board has relied in granting the approval set forth herein and shall be enforceable as if those representations were made conditions of this approval. Prior to the commencement of any land disturbance or construction, the Applicant shall have submitted and received approval for all corrections, revisions, amendments and/or additions to

the filed plans and reports required by this approval. Construction permit(s) shall not be issued by the Building Department until the Board Engineer determines that the construction documents submitted for permits conform to all Board approval requirements.

6. The Applicant shall comply with all applicable Municipal, County, State and Federal laws, ordinances, regulations and directives, including without limitation, obtaining all applicable local, state and federal approvals and/or permits. The Applicant shall confirm, in writing, the necessary agency approvals required as part of the project and shall provide certification, in writing, that all such permits and/or requests for said approvals have been applied for. All required permit applications and/or requests to other agencies having jurisdictional oversight with respect to this project shall be submitted to such agencies for review within sixty (60) days from the date of this resolution. Prior to the signing of the approved plans, and prior to the commencement of any land disturbance or construction, the Applicant shall submit proof to the Board Engineer that it has obtained all required governmental approvals and permits required for the project. Without limitation of the foregoing, if required by Municipal ordinance, a Soil Removal/Soil Disturbance permit shall be obtained from the Municipal Engineer in all instances where more than 5000 square feet, or 10 cubic yards, of soil and/or rock will be disturbed and/or removed.

7. The Applicant must pay all outstanding taxes, application fees, technical review fees, inspection fees and performance guarantees that may be required hereunder or by the Board Engineer or Municipal Engineer. The Applicant shall pay any additional fees or escrow deposits which may be due and owing within thirty (30) days of notification. Failure to pay the same shall permit the Board to withdraw this approval and any variances approved hereby.

8. The Applicant, its successors and assigns shall comply with all regulations of the municipality and the Council on Affordable Housing (COAH), including any amendments or revisions thereto, which may impact the subject property and any and all affordable housing obligations accruing from this development. The Applicant shall comply with all requirements of the Statewide Nonresidential Development Fee Act (N.J.S.A. 40:55D-8.1 et seq.) to the extent and at such time as said requirements shall become applicable to the proposed development.

9. The Applicant will consult with the Board Engineer in connection with the sequencing of construction, storage of construction materials, and the like, and agrees to post such bonds as may be required by the Board Engineer in connection therewith. If requested by the Board Engineer, the Applicant shall arrange for and attend one or more pre-construction meetings with the Municipal Engineer and such other Municipal Officials as the Municipal Engineer shall designate.

10. Upon written confirmation from the Board Engineer that the required plan and report revisions are acceptable, a total of six (6) sets of such final plans and reports shall be delivered to the Municipal Land Use Office, not later than thirty (30) days from the date of said written confirmation, for signatures by the Board. The signed plans will then become the official plans for the project. The Applicant shall not request final inspections or the issuance of a

Certificate of Occupancy until the Board Engineer confirms that all site plan details and conditions of approval have been complied with.

11. If required by the Municipality, the Applicant shall execute a Developer's Agreement in a form acceptable to the Board Engineer, the Municipal Attorney, and the Board Attorney, which agreement shall provide, among other things, for the posting of such performance and other bonds as the Municipality determines to be necessary and appropriate for the construction of the proposed development project.

12. Upon completion of construction of the project, the Applicant shall provide six (6) copies of an "as built" survey prepared by a licensed land surveyor.

13. If the Applicant desires to make any changes to the final plans, regardless of whether any such change is material or non-material, the Applicant shall request approval therefore by written application to the Board Engineer, which application shall clearly identify each change proposed. The Board Engineer shall determine whether each such change is "material" or "non-material". Changes determined by the Board Engineer to be nonmaterial shall be automatically approved. Material changes shall require an application for amended approval to be filed with the Board. Failure to comply with this condition will subject the Applicant to a fine pursuant to applicable Ordinances and may be sufficient grounds for withholding any certificate of occupancy or revocation of any previously issued certificate of occupancy pursuant to N.J.A.C. 5:23, Uniform Construction Code of New Jersey.

14. The Applicant shall obtain a driveway permit for the proposed driveway; the design of which shall be subject to review by the Board Engineer.

15. Approval from the Sussex County Board of Health shall be received for the proposed well and septic.

16. Approval or a Letter of No Interest shall be received from the Upper Delaware Soil Conservation District.

ALL NOTES INCLUDED IN THE APPROVED PLANS, INCLUDING NOTES REQUIRED BY THIS RESOLUTION, SHALL BE DEEMED TO BE CONDITIONS OF APPROVAL HAVING THE SAME FORCE AND EFFECT AS CONDITIONS EXPRESSLY SET FORTH IN THIS RESOLUTION.

I HEREBY CERTIFY that this is a true copy of a resolution of the Township of Wantage Land Use Board (which Board is a nine-member planning board as authorized by N.J.S.A. 40:55D-25c), duly adopted at a regular public meeting held on January 20, 2026.

Pursuant to N.J.S.A. 40:55D-10g(2), this Resolution memorializes the action taken by this Board at a public meeting of the Board held on July 15, 2025.

BOARD ACTION APPROVING APPLICATION

Name	Motion	Second	Ayes	Nays	Abstain	Absent
Gill, Victoria (Chairperson)			X			
DeBoer, William						X
Bassani, Ron						X
Konopinski, Joe						X
Darmstatter, Chris						X
Bono, Larry						X
Kanapinski, Joanne			X			
Walther, Mike						X
Dudzinski, Justin						X
Unverzagt, George (Alt. #1)			X			
Greenaway, Joseph (Alt. #2)	X		X			
Albinson, Keith (Alt. #3)		X	X			

BOARD ACTION ON MEMORIALIZING RESOLUTION

Name	Motion	Second	Ayes	Nays	Abstain	Absent
Gill, Victoria (Chairperson)			X			
Vander Groef, Justin					X	
Bassani, Ron					X	
Konopinski, Joe					X	
Darmstatter, Chris					X	
Bono, Larry					X	
Kanapinski, Joanne			X			
Walther, Mike					X	
Morris, Jon					X	
Greenaway, Joseph (Alt. #1)						X
Unverzagt, George (Alt. #2)		X	X			
Albinson, Keith (Alt. #3)	X		X			
Space, Hunter (Alt. #4)					X	

Chairman
WANTAGE TOWNSHIP LAND USE BOARD

Secretary
WANTAGE TOWNSHIP LAND USE BOARD

Dated: January 20, 2026
Prepared by: *David Burton Brady, Esq.*
Brady & Correale, L.L.P.