

Florence, New Jersey 08518-2323
August 23, 2011

The regular meeting of the Florence Township Board of Adjustment was held on the above date at the Municipal Complex, 711 Broad Street, Florence, NJ. Chairman Fratinardo called the meeting to order at 7:30 p.m. followed by a salute to the flag.

Vice Chairman Zekas then read the following statement: "I would like to announce that this meeting is being held in accordance with the provisions of the Open Public Meetings Act. Adequate notice has been provided to the official newspapers and posted in the main hall of the Municipal Complex."

Chairman Fratinardo stated that Vice Chairman Zekas would act as secretary in the absence of Secretary Montgomery.

Upon roll call the following members were found to be present:

Keith Crowell	Candida Taylor
John Fratinardo	B. Michael Zekas
John Groze	William Bott

ABSENT: Brett Buddenbaum (excused)
 Ray Montgomery (excused)
 Robert Adams
 Solicitor David Frank

ALSO PRESENT: Solicitor Denis Germano (substitute for Solicitor Frank)
 Engineer Dan Guzzi
 Planner Bob Perry

OLD BUSINESS

Chairman Fratinardo called for Application ZB#2011-13 for Effisolar Energy Corporation. Applicant is requesting Amended Preliminary approval to permit phasing and Final Major Site plan approval for proposed Phase 1 for solar generation facility on property located at 1019 Cedar Lane, Florence Township, NJ. Block 163.02, Lot 9 and Block 164.01, Lot 2.01.

John Guinco, attorney for the applicant, stated that at the last meeting they had discussed their request that in addition to the Use Variance and Preliminary approval to seek permission to create two phases for this project. They would like to permit Phase 1 to go to Final approval. They would seek approval from NJDEP to either impose requirements or permit demolition for the buildings on the Phase 2 section of the site. A revised plan was prepared and submitted. Attorney Guinco stated that he would like to call the applicant's engineer Richard Roseberry to testify. Mr. Roseberry had been sworn in at the last meeting and agreed that he remained under oath.

Mr. Roseberry stated that he had briefly touched on the Phasing plan at the last meeting. He submitted Exhibit AP1, dated August 23, 2011, and stated that this exhibit delineates Phase 1 and Phase 2. Phase 2 is the portion of the property closest to Cedar Lane and encompasses the old homestead of the property. That portion of the site needs some historical clearances and this will delay construction of this portion of the project. The phasing is proposed to allow Phase 1 to be constructed while approvals are sought from the State.

Attorney Guinco stated that Exhibit AP1 shows that the access drive goes around Phase 1. He asked when the drive would be constructed. Mr. Roseberry stated that the drive was part of Phase 1. Mr. Roseberry stated that perimeter fencing along the entire solar project would be provided as a part of Phase 1. There will be a temporary fence around the Phase 2 until the environmental/historical clearances are received.

Mr. Roseberry stated that in his opinion as an engineer, should the board grant the application and permit the phasing, Phase 1 could operate independently of Phase 2 successfully and not require any of the Phase 2 improvements. He stated that Phase 2 construction would consist of razing the buildings, grading the site following the demolition to level the ground, installing the additional solar panels and one inverter that would connect to the rest of the wiring in Phase 1. Mr. Roseberry stated that no variances would be required for Phase 2.

Mr. Roseberry stated that all the landscaping, fencing and the driveway would be constructed in Phase 1. Phase 2 is simply approval for demolition, grading and installation of grading and one inverter.

Chairman Fratinardo asked if a Use Variance would be required for Phase 2. Attorney Guinco stated that the Use Variance that the Board granted at the last meeting applies to the entire site, but with regards to the design they are seeking no additional variances.

Attorney Guinco stated that this concludes the new testimony for this evening's application. He stated that the Board, at the last meeting, requested that the applicant set up a meeting with the adjoining property owner to the south of the site, Mr. Gerald DiMassa. Mr. Roseberry stated that 2 representatives from Maser were present at the meeting and reported back to him. He said that they have added additional buffering along the property line to block the view of the solar panels from the rear deck of the residence.

Attorney Guinco stated that they had represented to the Board that at the latter stage of the construction, that there would be a review by the planner and engineer of the existing landscaping to identify any gaps and then adjust the plantings as needed in the field. They would also like to meet again with Mr. DiMassa to be sure that the completed landscaping addresses all of his concerns.

Mr. Roseberry stated that revised plans had been submitted that addressed the comments from Engineer Guzzi's and Planner Perry's review letters. He also stated that the maintenance report and drainage report had been submitted. He stated that all the comments had been satisfied with the exception of the few that require outside approvals.

Engineer Guzzi stated that the majority of the items in his letter dated August 22, 2011 have been satisfied. There were a couple of partially satisfied items waiting for outside approvals. Attorney Guinco stated that the Fire District had requested that a Knox box be installed on the gate for access. Mr. Roseberry stated this would be added to the plan.

Planner Perry referred the Board to his August 11, 2011 letter and stated that the applicant has satisfactorily addressed all outstanding comments. The only things still outstanding are the outside approvals. Attorney Guinco stated that everything required for Phase 1 - the County application, Soil Conservation and the DEP have been filed. They have not yet filed with the State Historic Preservation Office.

Member Taylor stated that she was pleased that a decommissioning plan was submitted. Vice Chairman Zekas asked that if the applicant were unable to obtain all the necessary permits for Phase 2, would this have any impact at all? Mr. Roseberry stated that each inverter has the capacity of 1 megawatt. If they were unable to construct Phase 2 this capacity would be lost.

Chairman Fratinardo stated that if there were no further questions he would like to have the meeting opened to the public. Motion of Taylor, seconded by Zekas to open to public comment. Motion unanimously approved by all members present.

Peter Bieling was sworn in by Solicitor Germano. Mr. Bieling stated that he lives on the property that is Phase 2 and has lived there for 36 years. He said that he has raised 5 children there who all went through the Florence Township School system. He stated that his family has been long time members of the community. He stated that the applicant has stated that they plan to tear the buildings down, but they haven't given him any information as to a time frame of what is going to happen. Mr. Bieling stated that he is very concerned as he also runs his business from the site.

Mr. Bieling stated that he has contacted the applicant but they haven't responded to him. He said that he is hoping that the Board will appeal to the applicant on his behalf. Mr. Bieling said that he hoped that the applicant would agree to subdivide this parcel out and sell it to him or at least give him a timetable so he knows what he is up against.

Mr. Bieling stated that he and his family are long time residents of Florence Township; his artwork is on the mural in the front lobby of the Municipal Building and on the sign out front. Attorney Germano asked Mr. Bieling if he was a tenant on the property. Mr. Bieling stated that he was a tenant on the property and the applicant has a contract to buy the site.

Attorney Guinco stated that his clients are in contract with the property owner to purchase the entire property. In that contract there is a representation to his clients as buyers that the property will be conveyed free of tenancy. Attorney Guinco stated that he could sympathize with Mr. Bieling's issues, however they have no contractual privities with Mr. Bieling. He stated that in his opinion and issues in regards to timing and whatever rights and obligations are between the property owner and tenant are landlord/tenant issues.

Attorney Guinco stated that his clients are in contract with the seller who has made representations and agreements to perform with them. Therefore, Attorney Guinco suggested that this is not an appropriate matter to be brought before the Board. Mr. Bieling would more appropriately bring it through his landlord to Attorney Guinco's clients. He also said that he thought it would be inappropriate for his client, Effisolar, to deal with Mr. Bieling when the contract is with the property owner.

Solicitor Germano stated that Attorney Guinco is saying that the contract is for the property owner to deliver this land with no tenant on it. He advised the Board that it is not appropriate for the Board to get into the middle of a landlord/tenant matter.

Mr. Bieling stated that the only thing that he was looking to get from the Board is a suggestion that the applicant does talk to him and gives him a plan. Chairman Fratinardo stated that the Board couldn't do this.

There being no one else wishing to testify, motion was made by Bott, seconded by Groze to close the public comment.

Attorney Guinco stated that they are seeking Preliminary and Final Major Site Plan approval for Phase 1 and Preliminary for Phase 2. Phase 2 is subject return to the Board for Final approval once the historic issues are settled.

Motion of Zekas, seconded by Bott to grant Amended Preliminary and Final Major Site Plan approval for Phase 1 and Preliminary Site plan for Phase 2.

On the Question:

Member Taylor asked if the applicant had received any indication from the Historical Commission. Attorney Guinco stated that they have not yet submitted the application to the State Historical Preservation Office.

Upon roll call the Board voted as follows:

YEAS: Crowell, Fratinardo, Groze, Taylor, Zekas, Bott
NOES: None
ABSENT: Buddenbaum, Montgomery, Adams

Chairman Fratinardo called for Application ZB#2011-09 for Silvia Secelean and Ioan Secelean. Applicant is requesting a Use Variance to permit conversion of a detached garage into a one bedroom apartment on property located at 1019 Potts Mill Road, Florence Township, NJ. Block 166, Lot 12.01.

James Burns, attorney for the applicant, stated that they are here seeking a Use Variance and asked how many members were in attendance. Attorney Germano answered that there were 6 members present. Attorney Burns explained to the applicant, Ms. Secelean, that for a Use Variance you need 5 yes votes for approval. Normally for a Use Variance it is best to have 7 members present. Ms. Secelean indicated that she would like to continue her application until the September 27th meeting. Attorney Burns stated that the applicant would waive the tolling of time for the application.

Motion of Zekas, seconded by Taylor to continue the application until the September 27, 2011 meeting without need to re-notice.

Upon roll call the Board voted as follows:

YEAS: Crowell, Fratinardo, Groze, Taylor, Zekas, Bott
NOES: None
ABSENT: Buddenbaum, Montgomery, Adams

MINUTES

Motion of Zekas, seconded by Groze to approve the Minutes from the July 26, 2011 meeting as submitted.

CORRESPONDENCE

- A. Township of Florence Ordinance No. 2011-09. An ordinance of the Township of Florence amending Chapter 91 to provide for temporary inflatable pools on residential single family properties in the R, RA, RB, RC and AGR zones.

Motion was made and seconded to receive and file Correspondence A. Motion unanimously approved by all members present.

PUBLIC COMMENTS

The meeting was opened to public comment. Seeing no one wishing to comment motion was made and seconded to close the public comment.

There being no further business motion was made by Zekas and seconded by Crowell to adjourn the meeting at 8:05 p.m.

Ray Montgomery, Secretary