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Florence, New Jersey 08518-2323  
March 3, 2014

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 Zekas called the meeting to order at 7:30 p.m. followed by a salute to the flag.

Secretary Buddenbaum 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."

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

Brett Buddenbaum	William Bott
Keith Crowell	Larry Lutz
Lou Sovak	B. Michael Zekas
Anant Patel	John Lauricella

ABSENT: John Groze

Also Present:  
Solicitor David Frank

## RESOLUTIONS

**Resolution No. ZB-2014-04**  
**Continuing the Application of Salvatore Varallo for a Use Variance**  
**to Permit Construction of a 40' X 30' Pole Barn to**  
**Store Equipment Utilized in his Land Excavating Business on**  
**Property Located at 2094 Old York Road, Florence Township**  
**Block 169.01, Lots 1.02 & 9.01**

Solicitor Frank said Member Lauricella voted yes previously to approve of the continuation but was accidentally left off the resolution and Member Crowell was listed as voting but was not in attendance. These amendments were made on the resolution.

It was the Motion of Buddenbaum, seconded by Bott to approve of Resolution No. ZB-2014-04 with amendments. All ayes, with Member Lutz abstaining.

Solicitor Frank said Resolution ZB-2014-05 would be addressed after the Board called the application regarding Salvatore Varallo.

## APPLICATIONS

A. Application ZB#2014-01 for Salvatore Varallo. Applicant is requesting use

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variance to permit construction of a 40' X 30' pole barn to store equipment utilized in his land excavating business on property located at 2094 Old York Road, Florence Township. Block 169.01, Lots 1.02 and 9.01.

The applicant was not present. Solicitor Frank said the Board Clerk had spoken with counsel for the applicant and he expressed that the applicant does want to withdraw the application. Clerk Erlston told the applicant's counsel to confirm this in writing but nothing had been received.

**Resolution No. ZB-2014-05**  
**Dismissing Without Prejudice the Application of Salvatore Varallo for a**  
**Use Variance to Permit Construction of 40' X 30' Pole Barn to**  
**Store Equipment Utilized in his Land Excavating Business on**  
**Property Located at 2094 Old York Road, Florence Township**  
**Block 169.01, Lots 1.02 & 9.01**

It was the Motion of Bott, seconded by Patel to approve Resolution No. ZB-2014-05.

Upon roll call the Board voted as follows:

YEAS: Bott, Crowell, Sovak, Zekas, Buddenbaum, Lauricella  
NOES: None  
ABSENT: Groze  
ABSTAIN: Lutz

B. Application ZB#2014-02 for LB Solar, LLC. The Applicant has installed a fence around the solar array, erected a hut for five Alpacas and utilizes the fenced in solar array for Alpaca grazing on property located at 1051-59 Florence-Columbus Road, Florence Township, Block 165.04, Lot 64

Solicitor Frank said he provided correspondence to Chairman Zekas dated March 2, 2014. The applicant is seeking to make some changes to the previous approvals granted by the Board. The actions taken by the applicant have been the subject of Municipal Court enforcement because things were placed without approval and other items that were required have not been installed. The applicant has made application to this Board; that stays the Municipal Court enforcement. The applicant already made application to the Burlington County Agriculture Development Board seeking Right to Farm protection. Under the Right to Farm Act in the first instance the County Agriculture Development Board determines if it has jurisdiction over a Right to Farm Application. The Florence Township Board cannot take action on this application until jurisdiction is determined. If it ends up that jurisdiction is local, the Zoning Board will hear the variance application.

Chairman Zekas asked how this application falls under the Right to Farm Act. Solicitor Frank said he can't really comment on the application but he knows the Township's position is that they are skeptical that the County will take jurisdiction.

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He explained that generally the Right to Farm Act protects commercial farms that are engaged in accepted agricultural management practices. A commercial farm is defined as a farm management unit of five or more acres that produces \$2,500 worth of horticultural or agricultural products annually. The farm must also be assessed as farmland.

A farm management unit is an enterprise that produces a specific product but operates as a single enterprise. That is significant. He gave some examples of applications for Right to Farm. If a property is covered under the Right to Farm Act it is exempted from local zoning laws and nuisance suits in superior court. It does not mean that the Township is ignored, the Board won't have jurisdiction but the Township ordinances will still be there to inform the County Agriculture Board about what the Township's concerns about public health and safety are.

Another problem is that the lands in question need to have been zoned agricultural when the act came into effect or presently be zoned agricultural. What is generally accepted agricultural management practice? There are two ways that happens. One is when there is an adopted Agricultural Management Plan approved by the State. There is a solar AMP that was approved by the State Agricultural Development Committee for solar arrays. If there is not an AMP adopted at the State, the County Agricultural Development Board would develop a site specific AMP. The decisions at the County level agencies can be appealed to the State level. The state agency would refer it to the Office of Administrative Law. There is a hearing officer called an Administrative Law Judge who would hold a hearing, find facts and make a determination. Then the agency can decide if it will adopt his conclusion or appeal.

The LB Solar, LLC, application is on hold at the Township level until determinations are made at the county level. The Board members wanted to make sure the Township's concerns were going to be expressed to the County Boards making the decisions. Solicitor Frank said the Township is able to appear before the Board and voice its concerns about the application. He expects the Township will take advantage. Solicitor Frank said the members of the Zoning Board should not become involved because they are a fact finding quasi-judicial board that needs to remain neutral.

It was the Motion of Lutz, seconded by Bott to adjourn the application to the April 7, 2014 meeting of the Board. All ayes. Members Patel and Lauricella recused themselves from voting on the application. Solicitor Frank said no renote would be required at this point.

MINUTES

CORRESPONDENCE

OTHER BUSINESS

Motion of Bott, seconded by Lutz to adjourn the meeting at 8:04 p.m. Motion unanimously approved by all members present.

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Brett Buddenbaum, Secretary

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