

Florence, New Jersey 08518-2323
June 4, 2015

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
Larry Lutz	Lou Sovak
B. Michael Zekas	Joseph Cartier
Anthony Drangula	Anant Patel

ABSENT: John Groze

Also Present: Solicitor David Frank
Engineer Anthony LaRosa
Planner Barbara Fegley
Conflict Engineer Rakesh R. Darji
Conflict Solicitor Dennis Germano

APPLICATIONS

A. Application ZB#2015-07 for Kelly Barcalow. Applicant is requesting bulk variances for two existing sheds attached by a single roof constructed without zoning approval on property located 77 Main Street, Roebling, 08554.
Block 133, Lot 20.

Solicitor Frank said there were issues with the notification for the application and the Board does not have the jurisdiction to hear the application. It will be heard next month.

B. Application ZB#2015-09 for Samuel and Ann Frankel. Applicant is requesting bulk variances for rear yard setback to permit construction of a 12'X12' deck on property located at 28 Third Avenue, Roebling.
Block 138, Lot 49

Solicitor Frank swore in Mr. and Mrs. Frankel and Charles Donnelly, the applicant's builder. Mr. Donnelly said the applicant would like to put a recreational deck on the back of their home. Several of their neighbors have decks. It does encroach on the 30' minimum property line setback. After construction it will be within 15' of the property

line. Chairman Zekas asked the size of the deck because there was a question regarding the actual size. Mr. Donnelly said the deck would be 12'X12'. Engineer LaRosa questioned the measurement from the property line. He asked if the measurement was from the center line of the alley. The survey provided indicated that was the property line. Mrs. Frankel said she measured from her fence. Engineer LaRosa said regardless there is a variance required. There is a 5.4' difference. Chairman Zekas asked for a clarification on what the rear yard setback would be with a 12' deck. Engineer LaRosa said he would measure from the center line of the alley that is how it is shown on the survey. Based upon that it is 31' from the line. The issues are the rear yard setback and lot coverage.

Chairman Zekas asked about the deck construction. Mr. Donnelly said it is standard construction. The only difference is that the material is a composite material and the railing will be vinyl. It was approved by the Historic Preservation Commission. There are many neighboring houses with decks around the same size. There is no covering on the deck. If allowed, the applicant would like a privacy divider but that would be something the Construction Office would regulate. Chairman Zekas said it looks like the deck will go pretty much to the end of the property line. Mr. Donnelly confirmed that it will go to the shared property line.

Member Bott asked about the existing shed that was noted in the engineer's report. Engineer LaRosa said in his report he noted that there are things that weren't shown in the survey. One was a shed he estimated at 10'X8'. His numbers that were calculated take into account the estimated coverage that was not on the survey. There is a concrete walkway on the south side of the dwelling. There was a patio that was not shown as well. The existing lot coverage is 1,123.25 sq. ft. He estimates the proposed at 1,267.25 sq. ft. He says these are estimates because some items were not shown on the survey and it was also a 15 scale plan. The existing lot coverage is 44% and the proposed is estimated at 49%.

Member Drangula asked if the deck is going to go over the existing patio. Mr. Donnelly said that is correct. It will not extend over end of the patio. Engineer LaRosa said there is no increase of impervious coverage. He said he did not realize the deck was going over existing coverage so the only issue is the rear yard setback.

It was the Motion of Lutz, seconded by Patel to open the meeting to the public regarding Application ZB#2015-09. Seeing no one wishing to be heard, it was the Motion of Buddenbaum, seconded by Lutz to close the public hearing.

Solicitor Frank said this is an existing undersized lot. There is the need for a rear yard setback variance. The deck is consistent with what is on other properties.

Engineer LaRosa said all of his issues were addressed except drainage, but that is no longer an issue because he learned the deck is going on existing lot coverage.

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It was the Motion of Buddenbaum, seconded by Lutz to approve Application ZB#2015-09.

Upon roll call the Board voted as follows:

YEAS: Buddenbaum, Patel, Bott, Lutz, Zekas, Drangula, Sovak, Cartier

NOES: None

ABSENT: Groze

C. Application ZB#2015-01 for minor subdivision and ZB#2015-10 for Amended Final Major Site Plan for Effisolar Energy Corporation for property located at 1019 Cedar Lane, Florence Township. Blocks 163.02/164.01, Lots 9/2.01.

At this time Solicitor Frank recused himself due to a conflict. Conflict Solicitor Dennis Germano stepped in. Engineer LaRosa also recused himself. Conflict Engineer Rakesh Darji took his place.

Brian Guest, attorney representing the applicant, came forward. With him were Lawrence Neuman, President of Effisolar, and Engineer John Vincenti. They were sworn in by Solicitor Germano.

Mr. Guest said the application may be somewhat familiar to the Board. The property in question was before the Board two years ago. The professional team for the applicant has changed since then. At that time variances, subdivision and site plan approvals were granted. It was an 18 megawatt capacity solar farm. The applicant has returned to make a three lot subdivision as opposed to the two lots that were approved. The new proposed facility will be smaller at 10 megawatts. One lot would contain the existing residence and other buildings that are at the site on Cedar Lane. One lot will contain the now reduced in size solar facility. The third lot will remain vacant. He said this was a general overview.

Mr. Guest called Mr. Vincenti and asked him to state his qualifications. Mr. Vincenti said he is licensed in New Jersey as a Professional Engineer and as a Professional Planner. He is also a Certified Municipal Engineer. He has been licensed since 1988. He has a Bachelor's Degree in Civil Engineer from Rutgers University. He has been in private practice for the last seven years. He has testified before numerous boards and has prepared the plans for this evening. Generally he prepares land use plans and subdivision site plans and presents the applications to the land use boards. He was accepted as an expert witness by the Board.

Mr. Guest asked Mr. Vincenti to provide a more detailed description of the overall plan. Mr. Vincenti said there are two applications. One is a minor subdivision and the other is an amended site plan dealing with the solar farm. He would like to discuss the subdivision first. He referred to a rendering. One lot is rectangular in nature. It is along Cedar Lane. The applicant wants to take what was originally supposed to be one large horseshoe shaped lot and divide it. There is a wetland area that is a natural divide between the two properties. It is about 114 acres of land. Presently it is farm.

There would be three lots. Lot 2.03 is the rectangular lot that fronts on Cedar Lane. That will be 5.1 acres. It is about 570' wide by 390' deep. It will contain all of the existing structures. The second lot is Lot 2.04. It is on the southerly portion of the property. That will be 34.5 acres. It has 875' of frontage on Cedar Lane. That is going to remain as an agricultural use. The remaining lot, 2.05, which is the subject of the site plan, has about 571' of frontage. It makes up the remainder of the property. There is a series of wetland corridors, stream corridors and some large isolated wetlands at the back. All three lots will conform to the zoning for the area. There is one non-conforming issue with regard to a setback on 2.03 but it is an existing condition. Solicitor Germano asked that the renderings be marked A-1.

A colored rendering was entered as A-2 by Mr. Vincenti. It is a composite plan of the landscape plan. With respect to the minor subdivision, the applicant did receive conditional approval from the County. There is also the issue of the number of existing driveways that service the properties. There would only be one driveway for Lot 2.03. There are a series of driveways that will be removed. There will only be one that services the existing home. The applicant is proposing one driveway for Lot 2.05. The County wants the plan to show where the driveway would be for Lot 2.03.

Member Bott asked if the house on the property was occupied. The applicant believed it was vacant. Member Bott asked what the applicant planned to do with the structures. Mr. Vincenti said the structures will remain as is. The property owner will be Mr. Lesko. He is retaining ownership of the property. Chairman Zekas said he believed the house was occupied. Mr. Vincenti said the property owner is retaining Lot 2.04 as well.

Mr. Vincenti said he would like to give the Board a brief overview of the site plan. Previously there was a 14.5 megawatt solar facility proposed. It encompassed developing not only the area proposed now but also the 34 acres that is no longer part of the development plan. The applicant is now proposing a reduced 10 megawatt facility essentially with access from the northerly part of the site. There will be a centrally located access roadway that will come in to the existing gravel drive that will provide access through the center of the site to the various solar arrays that will be constructed. The facility will be surrounded with 8' high chain link fence, similar to what was previously proposed. The location of the fence would be along the setbacks, or along wetland buffers or other physical features.

For the frontage, the applicant plans to maintain the mature vegetation that is there. Behind it there will be a row of new vegetation to supplement. There will also be a row of landscaping to the north and also to the south, similar to what was previously approved. The only landscaping that was changed was eliminating landscaping on the southerly portion that was proposed when there were solar arrays in that area. That has been taken off the plan and there is nothing proposed for that area.

Member Patel asked if there was an access road for the property that is not being used. Mr. Vincenti said there is no road but the County and the Board Engineer asked the location be shown on the plan.

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Mr. Vincenti said there are converters and transformers and other equipment that are shown on the plan. There are details that show what will be going where. Member Bott asked if the equipment would make any noise. Mr. Vincenti said it is his understanding that there is no noise.

Mr. Guest called for Mr. Neuman to address the issue of sound. Mr. Neuman said if someone were close there would be a humming sound but not to any distance.

Mr. Vincenti said there were a number of approvals obtained from the DEP with respect to wetlands. Those approvals are still in place. The placement of the proposed improvements is similar to what was previously approved by DEP. It is the applicant's position that because the focus is on a reduced area, those approvals are still valid. Essentially what was approved before is the same as what is being proposed, just scaled back into the area indicated.

Member Sovak asked how many panels are proposed. Mr. Vincenti said there will be 36,300. Member Bott asked if there was anything that could catch on fire. Member Patel asked how fire responders could get to a fire if the first road is impassable and there is no second road. Mr. Vincenti said the only thing that could have an issue would be equipment. Mr. Bott said his concern is that the ground cover could catch fire. Mr. Vincenti said the driveway alignment was reviewed previously by the fire marshal and he approved it. He reviewed on the plan where the converters and the transformer were located and the site is designed for access to them.

Mr. Guest referred to Engineer Darji's review letter. The applicant requested a waiver of the Environmental Impact Statement. One was submitted previously for this site. The engineer and planner both agreed it could be waived. It was also noted that the site was previously granted a use variance and it is now being reduced. Mr. Guest said there would be no need for any further issue there. The applicant asked for a waiver for the installation of sidewalks in exchange for a payment to the Township Sidewalk Fund. The applicant agreed the amount would need to be updated from the previous application. The applicant agreed to comply with the minor subdivision comments.

Chairman Zekas asked if there were any questions or issues at this point. Chairman Zekas asked if the sidewalk requirement would only apply to where the construction is and where the house is. Mr. Guest said the vacant lot would not be part of it.

Member Patel asked about the ordinance dealing with solar that was adopted by the Township. Solicitor Germano said this application was granted preliminary and final approval. With that comes certain rights. One of those is that after they get their approval the Board can't change the rules on them, which is basically what that ordinance did. There is a Permit Extension Act that has been in effect the entire time this approval has been in effect. Basically the rights the applicant received when the final approval was granted are still in place.

Member Bott said the applicant is coming back on an old approval, doesn't that give the Board the ability to revoke the approval. Solicitor Germano said he did research on that issue and there were two cases on that point. For the first, the court said yes the door was open because the developer wanted to take an 8,000 sq. ft. building and increase it to 12,000 sq. ft. He wanted to substantially intensify what was approved. For the second case the court said yes it opens the door because the applicant wanted to change the use. This case falls under neither.

Mr. Bott asked if the open lot would remain farmland forever. Mr. Guest said the applicant will not own that lot so he can't guarantee it would be farmland forever.

Mr. Guest said the professionals asked in their reports what the differences were between this application and what was already approved. He said essentially the size changed. There have been changes to the solar industry and the magic number is now 10 megawatts. That is why the project is being scaled down.

He said the applicant does not plan to own lot 2.04. The access drive is unchanged from the current approval. The updating of the sidewalk contribution has been addressed. Mr. Vincenti said after the application was approved by the Board the application went to the DEP for various permits. There were some changes and modifications that the DEP requested. Essentially the solar arrays are not allowed in wetlands, wetland transition areas, or in floodplains. However there are riparian buffers on the property. If there is a situation where there is a classification of a disturbed riparian buffer or a farmed area or an area that does not have mature vegetation certain structures would be allowed in that riparian buffer. There are areas of the riparian buffer where solar arrays are proposed. The footprint of the plan is what was approved by the DEP.

Mr. Vincenti said regarding vehicles on the site, after construction there will only be maintenance vehicles. It will be single unit small vehicles and primarily vans. There are no tractor trailers or large vehicles coming to the site.

Regarding the gravel driveway, Mr. Vincenti said it will not be paved. It will be a 6" Recycled Concrete Aggregate or Dense Graded Aggregate. Engineer Rakesh suggested in his report a 4" top layer, but said he didn't know when preparing the report what kind of vehicles would be using it. The applicant agreed to keep in contact with the engineer and would add the 4" layer if it was needed.

Mr. Vincenti said regarding stormwater management, the site would conform to State requirements. There is additional information being required by the engineer and it will be provided.

Member Bott asked if the panels would be away from the road. Mr. Vincenti said there would be a 50' setback from the road and there is a landscape buffer. Mr. Guest said in the summer the solar array would not be seen from the roadway. Member Drangula asked what percentage of the lot would be covered with the solar array. Mr. Guest

indicated on the plans where the coverage would be. He estimated about 65% of the lot would be covered.

Member Buddenbaum asked if all three of the inverters would connect to the one transformer and then to the street. Mr. Neuman said yes, that is the case. The connections from converter would be underground. Mr. Bott asked how much disturbance this would cause. Mr. Neuman explained the trenches that would be run. The disturbance would be minimal.

Mr. Sovak asked what was in a certain area on the lot. Mr. Vincenti said it was a wetlands area. There was discussion regarding the direction of the solar panels. Mr. Neuman said they would be facing south toward the vacant lot.

At this time the Board took a brief recess.

It was the Motion of Lutz, seconded by Patel to open the meeting to the public regarding Application ZB#2015-01 and ZB#2015-10.

Fred Wainwright, 1011 Cedar Lane, said along the cemetery there is a four or five foot chain link fence. There is heavy growth along it. He asked if there was going to be another fence there now also. Mr. Guest said the applicant is not doing anything with that existing fence. There will be a new 8' fence inside the property line. Mr. Wainwright said the buffer creates a mess. It gets overgrown and out of control. He said the plantings will become a woods area. Then in 20 years they fall over. The area will grow poison ivy and mulberry trees. That's what happens when someone puts a fence in and doesn't maintain it. Chairperson Zekas asked if Mr. Wainwright had an idea for a solution. Mr. Wainwright said it would just require some maintenance. Chairman Zekas said he believed that if there were growth that was ill-affecting the panels it would be maintained. Mr. Wainwright said the side of the property near the cemetery does not get much sun so it would not be maintained. He said he sees it all over. There is a solar array in the Township that has grass knee-deep under the panels. Chairman Zekas said based on testimony that the Board has heard in the past, he thinks that that site must not have used the right seeding mixture. There is a special type of mixture. Mr. Wainwright said there is grass in between the panels that gets out of control. Mr. Guest said the applicant will use what is called a no mow mix. You really can't run mowers around the equipment. The special seed mix just gets to a certain height and stops growing. The grass also acts to retain water for drainage.

Mr. Wainwright said he is not opposed to solar, he just wanted to tell the Board what will happen at the site in the future. He asked if trees were being removed for the project. Mr. Guest said there will be some areas where trees will be removed. Mr. Wainwright said he doesn't have a problem with that but the area needs to be maintained. If it goes too long it is a big problem. It is a lot worse to take care of later. Chairman Zekas asked how much space would be between the two fences. Mr. Guest told him 30'. Chairman Zekas concurred that there will end up being what Mr. Wainwright described. Mr. Guest said there is a hedgerow there that is not being removed. There won't be any changes to

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that area. Member Bott also said the area would be a mess and no one is going to maintain the area. Mr. Guest said issues like maintenance of buffers and picking up debris and litter are matters for the Township Council to deal with using a Property Maintenance Ordinance and the Code Enforcement Department. If a property owner does not properly take care of their property they should be cited for that.

It was the Motion of Lutz, seconded by Buddenbaum to close the public hearing. All ayes.

Solicitor Germano said the applicant is seeking approval of the three lot subdivision and Amended Final Site Plan Approval. There are two waivers, one for the Environmental Impact Study and the other regarding the sidewalks. The Board agreed to grant the waivers.

Solicitor Germano asked for a motion to grant minor subdivision approval with the two submission waivers and conditioned upon compliance with all of the concessions the applicant made during the course of the presentation along with outside agency approvals and all other normal conditions.

Chairman Zekas asked about the County requiring the applicant to identify the driveway on the lot that was not being developed. Mr. Guest said they wanted the applicant to identify the location of a driveway in case there is a need in the future for an access. It will not be installed, it was only identified on the plans.

It was the Motion of Bott, seconded by Lutz to grant the request for the subdivision as per what Solicitor Germano reviewed.

Upon roll call the Board voted as follows:

YEAS: Bott, Buddenbaum, Lutz, Patel, Sovak, Zekas, Cartier

NOES: None

ABSENT: Groze

Solicitor Germano said the next motion would be one to approve the Amended Final Site Plan, conditioned on the submission of all of the information and of the plan modifications the applicant said during his presentation he would make. The plan will also be submitted to the Fire Marshal to specifically review the adequacy of the access road. The Township Engineer will monitor the adequacy of the road cover and adjustments would be made as needed. All other standard conditions also apply.

It was the Motion of Lutz, seconded by Patel to approve the Amended Major Site Plan with the conditions that were reviewed.

Upon roll call the Board voted as follows:

YEAS: Buddenbaum, Bott, Lutz, Patel, Sovak, Zekas, Cartier

NOES: None

ABSENT: Groze

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RESOLUTIONS

**Resolution No. ZB-2015-12
Granting the Application of Newell Kehr for Impervious Lot Coverage
and Height to Permit Construction of a Garage and
Associated Driveway on Property
Located at 316 East Front Street
Block 74, Lot 2**

It was the Motion of Bott, seconded by Lutz to approve Resolution No. ZB-2015-12.

Upon roll call, the Board voted as follows:

YEAS: Bott, Buddenbaum, Lutz, Cartier, Drangula
NOES: None
ABSENT: Groze

MINUTES

It was the Motion of Patel, seconded by Lutz, to approve as submitted the April 6, 2015 minutes. All ayes.

OTHER BUSINESS

PUBLIC COMMENTS

Motion of Cartier seconded by Lutz to adjourn the meeting at 9:15 p.m. Motion unanimously approved by all members present.

Brett Buddenbaum, Secretary

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