

Florence, New Jersey 08518-2323  
November 5, 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
Lou Sovak	B. Michael Zekas
Larry Lutz	Anant Patel
Joseph Cartier	Anthony Drangula

ABSENT: None

Also Present: Solicitor David Frank  
Engineer Anthony LaRosa  
Planner Barbara Fegley

#### RESOLUTIONS

- A. Resolution ZB-2015-19 granting the application of Trinity Solar for side yard setback variance to permit installation of ground mounted solar panels on property located at 2029 Old York Road. Block 171.01, Lot 10.

It was the Motion of Lutz, seconded by Bott to approve Resolution ZB-2015-19.

Upon roll call the Board voted as follows:

YEAS: Bott, Buddenbaum, Patel, Lutz, Sovak, Zekas, Cartier  
NOES: None  
ABSENT: None

#### APPLICATIONS

- A. Application ZB#2015-12 for Ad Dawah Center of New Jersey. Applicant is requesting Use Variance, Preliminary and Final Major Site Plan with bulk variances and design waivers to permit conversion of former school building to a house of worship (mosque) on property located at 440 West Fourth Street,

Florence. Block 31, Lot 1.

At this time member Lutz recused himself due to a conflict of interest.

Mark Roselli, representing the applicant, came forward. He said the applicant was seeking a use variance and preliminary and final site plan approval in connection with property located at 440 West Fourth Street. The owner of the property has provided written consent of the application. He said he would like to address completeness and he referred to the board engineer and his review letter. He said he had witnesses with him to testify on behalf of the application. He requested to swear in all of his witnesses at this time. With him were Dr. Attia Swelliam, President, Ad-Dawah Center of NJ, Inc., Abdul Razak, Secretary of Ad-Dawah Center of NJ, Inc., Monsur Ahmed, Vice President, Adnan Khan, project engineer and James Miller, project planner.

At this time Solicitor Frank swore in the board professionals and the witnesses.

Engineer LaRosa said his first item was the request for a waiver for the Environmental Impact Statement. Mr. Khan said the building would be a school and place of worship so he didn't expect there would be any changes to the environmental aspects of the site. The next requested waiver was for wetlands and stream encroachment. The submitted information shows there is an absence of these on the site, so Engineer LaRosa had no objection to granting the waiver. He did receive test borings as requested in a previous letter. There was some language throughout the report regarding what needs to be performed and constructed for the underground stormwater system. He deferred this and would include those requirements as part of the overall requirements of the project. Although there were some items here under completeness, there would need to be some additional notes added to the plan. That would be part of any approval. The property survey was provided as part of the subsequent submission. He also would like to see a note on the plan dealing with sanitation and what would be provided. Mr. Khan said a sanitary plan was supplied. He explained there would be information provided for the existing connections and any others. He believed what is there is more than adequate to handle the proposed improvements. There was really no need to upgrade the existing sanitary sewer. Engineer LaRosa asked about trash. Mr. Khan said it is curbside pickup. The township provides the service and the applicant would provide the containers. They would be regular trash containers that could be wheeled to the street for curbside pickup. The same would apply to recycling. Engineer LaRosa asked if there was an area where receptacles would be kept. Mr. Khan said there was a designated area for the containers. Engineer LaRosa asked if there would be any special fire protection required. Mr. Khan said whatever the building code required would be done. Based upon the information provided, Engineer LaRosa believed there was sufficient information to deem the application complete.

Solicitor Frank told the applicant this doesn't mean there won't be additional requests for information throughout the hearing, it just meant that in regard to the checklist items the board engineer was satisfied he received adequate information to proceed.

It was the Motion of Buddenbaum, seconded by Cartier to deem the application complete. All ayes.

Mr. Roselli called his witness Dr. Swelliam. He said it was important for the board and the public to understand who the applicant is. Sometimes there are some misconceptions about what will happen and who they are. It was important to understand why they want to be in Florence. After that, Mr. Razak would testify about what was going to happen on the site such as services being held and the learning center aspect of it. He wanted to discuss these items first before getting into the site plan. Finally, he said, Mr. Miller would testify with respect to the variance requests.

Mr. Roselli asked Dr. Swelliam to give a narrative of who the applicant is and why they wanted to be here in Florence. Dr. Swelliam said it was a small community of about twenty five families that are seeking a place to meet regularly. They reside in Florence as Muslim-Americans. They are seeking a place to meet for the purpose of meeting their religious obligations. It would include education also. They are looking for a place to interact with each other and the community. They would mostly be there on the weekend and on Fridays for an hour. It is a registered non-profit organization. The community is multi-ethnic, meaning they are originally from different backgrounds, but are all American and taxpayers. The group needs a place for education and practice as needed. The group is currently renting space but it is growing and hopefully this will be part of the renaissance and enhancement of Florence by having this place here. Their presence could encourage businesses to come to the area, he said.

Chariman Zekas asked Dr. Swelliam to elaborate on the educational component. Dr. Swelliam said it is a weekend educational component of the the group's religion. There are other education components such as helping in the public school if it is needed because children from the group attend the local public schools. An example might be sharing information about the religion or tutoring. There is also adult education. There might some seminars and discussions on how to be more effective in the community. The group wants to be part of the community and part of that is with education.

Member Bott asked about the size of the group. Dr. Swelliam said there are about twenty five families and it is limited to the Florence area. In each town there is a center. The growth of the group depends on the number of Muslims who come to Florence. Member Bott asked why someone not from Florence would not come here. Dr. Swelliam said there are no restrictions. Member Bott asked how many other people would join the congregation. Dr. Swelliam said the growth would depend on the growth of the Muslim population. There is a capacity for the building and the group would not be able to exceed that. Member Bott asked what the capacity was. Mr. Roselli answered that the building capacity is forty six. Member Bott said there is no idea how many people will come from any particular area. He asked where there was another mosque within twenty five miles of Florence. Dr. Swelliam said there are others in the area. He noted that people can stop and pray and leave.

Member Buddenbaum asked how many prayer sessions there are every day. Dr. Swelliam said on the weekend families attend and the children come to meet. There is a congregation on Fridays for one hour, other than that it is by occasion, whatever the religious occasion may be. He hoped to be an addition and part of the enhancement of Florence.

Chairman Zekas asked if they were presently renting space. Dr. Swelliam said they are renting space in Bordentown. Sometimes they rent space at the Ramada as needed. They would like to find a permanent space. Member Buddenbaum asked if the group ever expected to exceed the capacity of the building, he is assuming the congregation will grow and he thinks eventually they would outgrow the building. Dr. Swelliam said the group hopes to grow. What attracts people is the quality of the education and the quality of the lectures. He estimated having to look for a bigger place in about five years. The group has not grown much in the ten years they have been renting. They would like to have an established place.

Mr. Roselli called for Mr. Razak. Mr. Roselli asked how long Mr. Razak has been the secretary of the organization. Mr. Razak said over a year. Mr. Roselli asked if he was familiar with the application and the Ad-Dawah organization. He said he was. Mr. Roselli asked if he was familiar with the intended use for the site that is the subject of the application. Mr. Razak said he was. Mr. Roselli asked how long the Ad-Dawah Center of NJ been in existence. Mr. Razak said he believed about twelve years. Mr. Roselli asked if it was a non-profit organization and non-political organization. Mr. Razak confirmed that was the case. Mr. Roselli said there were some questions raised by some of the board members concerning the operations of the worship center and school component. He asked what the purpose of the proposed center was presently and who would be attending. Mr. Razak said the intent of the facility is to serve Muslim people in the Florence area. Mr. Roselli asked where the members are currently meeting. Mr. Razak said as a Muslim there is a requirement to pray five times a day. It starts just before sunrise, then mid-day and late afternoon, dusk and at night. Some community members meet in each other's homes at least once a week to pray. Over the last eight years or so the communities of Bordentown, Mansfield and Florence and those that work in those areas have been meeting at the Scottish Rite on Dunns Mill Road in Bordentown. They rent the hall for an hour or so to pray the Friday afternoon prayers. Member Buddenbaum asked if the Florence site would become the new place for that. Mr. Razak said he didn't think so because the prayer is during work hours so people will go to wherever is closest to work.

Mr. Roselli asked if people would be coming to the Florence site five times a day to pray. Mr. Razak said the reality is he has been in this area for over twenty years. There is a place on Route 206 to go to for prayer. The only time people show up is for morning prayers on Saturdays and Sundays. It is usually only two or three people. Nothing happens during the week. The only prayers that would happen are for the evening and night prayers and it would only be a handful of people. Even though there is an obligation to have congregation prayers all five times, that doesn't really happen. People are working, people are sleeping. They are not going to drive over on a consistent basis.

Solicitor Frank said from a land use perspective what the board is charged with analyzing is the range of hours that are proposed for the center. When would it be possible for people to come there and pray, in what range of hours. Mr. Razak said this was an educational as well as worshiping site. The educational aspect of it would be on the weekend between 9:00 a.m. and 1:00 p.m. As far as prayers, the facility should technically be available for people for prayer during the five prayer times. He doesn't expect it to be staffed. There isn't going to be someone there all the time. It would be available to people if they want to pray. Mr. Roselli asked what the hours would be that it would be available. Mr. Razak said each prayer is between five and twenty minutes maximum. The afternoon and night prayers are twenty minutes. The morning is five minutes and the late afternoon and the evening are between five and ten minutes. Solicitor Frank asked when the latest prayer in the evening would be. Mr. Razak said 8pm.

Member Drangula said even though Mr. Razak said it is isn't probable, he is asking for it to be open from before sunrise throughout the day until 8pm. Mr. Razak said it would be open at the prayer intervals. Member Drangula asked for clarification regarding before sunrise. Mr. Razak said it is about thirty minutes before sunrise. Mr. Drangula asked how the people would be called to prayer. Mr. Razak said there is no calling. Most people know the times for the prayers. There are a lot of apps available that give the details. The times are based on sunrise and it changes. The time is set and adjusted monthly.

Member Bott asked when the adult education would be held. Mr. Razak said it would be on the weekend. Member Bott is concerned with the number of people that would be attending. He was afraid people would find out about it and travel to the Florence site. Mr. Razak said there are other places of worship in the vicinity. There is one in Lawrenceville, one in Trenton, there is one on Route 206. There is a large mosque on Route 1. There are plenty and they are on major roads. This one would really not be the first choice for people living fifteen to twenty minutes away.

Member Buddenbaum said Mr. Razak can't be exactly sure what time people will be arriving for prayer. They won't be showing up at the same time for prayer, everyone is a little off for the times. Mr. Razak said they would pretty much be at the same time because there is a calendar set up with the start times for prayer. It is posted so that people know the schedule. Member Buddenbaum asked if the doors were going to be open all the time. Mr. Razak said the doors will only open during prayer time. There will be a punch in number code that would be given to only a handful of people. Those people would be the only ones to open. If someone came and there was no one to open there would be a number to call, but that would be very unlikely. He has seen it used at other locations. Member Buddenbaum said he thinks if there is a code it ends up being given to everyone. People share it with each other.

Member Bott asked if there would be adult and children classes at the same time. He is concerned there would be more than forty six people there at one time. He doesn't think

that there will be less than forty six. Mr. Razak said the children's classes will be at a different time. There is ebb and flow. Some people join, others leave, and he believes they won't go over. There won't be overlap with the classes and prayers.

Solicitor Frank asked about high holidays. Every Catholic Church has a boom on Christmas Eve. Mr. Razak said there are two major holidays. One is the end of the month of Ramadan and the other is the Hajj. What they've done over the last eight to ten years is to rent a hall in the Scottish Rite to accommodate a large group. They intend to keep doing that. Any event that would surpass the capacity would be held at another location.

Engineer LaRosa asked about the lighting. He noted that during Ramadan the lights will be on as late as 11:30pm. Mr. Razak said during the month of Ramadan there is an additional prayer that is held. It is at night. For the month of Ramadan they fast for the whole month from sunrise to sunset. At the end of the day they go to pray. The prayer stretches a couple of hours. It is only for one month and it would be from 8:00pm until around 11:00pm. The lighting would be addressed by the engineer in later testimony.

Member Drangula said his understanding was that there would be prayer five times a day and more on Friday. Now there is discussion regarding holding school there during the day. Mr. Razak said it is held one day a week, Saturday or Sunday, most likely Saturday. There would probably be about fifteen to twenty students, total. Member Drangula asked if it would be to help the students with their schoolwork from during the week or would it be religious classes. Mr. Razak said it would be focused on religious education and Islamic studies.

Mr. Razak said people in the community are reaching out to each other and visiting homes and helping each other already. They are just looking for a place where they can do it a little more formally. Member Drangula asked what drew them to Florence. Mr. Razak said they were attracted to the building because it was zoned as school and they thought they would not need to get a variance to open there. And many of the congregants already live in the community.

Mr. Roselli asked if the applicant would be willing to open the facility to the community. Mr. Razak said yes. One of the things the group would like to do is reach out to the community and to have more collaboration. That is one of the intents of the organization. They have ideas for different things to do to reach out to the community. They would like to create a bond like they have seen other mosques do. They also want to be able to share their culture with others. They hope to work with the community and be a part of it and be more engaged with it. There are opportunities to reach out and help with community events also.

Mr. Roselli said the question came up, why Florence? Is it fair to say they chose Florence because many of the families that are meeting in Bordentown are from the Florence area? Mr. Razak said that is the reason. If there was a place for prayer closer, they would be more likely to come. Member Bott asked how many people from

Bordentown were at the Friday prayers. Mr. Razak said about thirty people. Mr. Razak said they would still be renting the Scottish Rite.

Solicitor Frank asked if anyone in Florence would be able to walk to the proposed site. Mr. Razak said most of them are not in walking distance. Planner Fegley asked how many individuals are members of the group. Mr. Razak said it would be more than fifty. He noted that the prayers are mandatory for the men, not the women. Not all women come for all the prayers. Member Buddenbaum said the board had to look at what could happen, the worst case scenario. Mr. Razak said at the Scottish Rite ninety percent of those attending prayer are men.

At this time Mr. Roselli called his witness Mr. Khan, the project's engineer. Mr. Khan said he is a civil engineer by trade. He holds a Masters in civil engineering and a Masters in Construction Management. He is a professional engineer in New Jersey, New York, Pennsylvania and Maryland. He has testified before over fifty land use boards, and also was an expert in the Superior Court of New Jersey. Mr. Khan was accepted as an expert witness.

Mr. Roselli called Mr. Khan's attention to the submitted plan. Mr. Khan reviewed what was included. The property is zoned "S" for school. He reviewed the existing non-conforming conditions that won't be changed. Except for the use variance and existing non-conformities, the project meets all the bulk requirements of the zone. There was a parking analysis done based on the zoning requirements. Per the requirement, there needs to be one space for each three seats. In a mosque there are no seats, everyone prays on a rug so they went based on the occupancy divided by three and the parking requirement was determined to be sixteen spaces. The plan proposes twenty nine spaces. They would be constructed in two phases. For phase I twenty spaces are proposed and nineteen would be banked spaces in phase II. They would only be added if the demand justified it.

Mr. Khan said there was a comment from the board engineer's review regarding what is required for ITE parking standards. The ITE studies use mosques that are much larger than this one. Their requirement is thirty four spaces. This application has twenty nine on-site spots. They would like to include some on-street parking to satisfy the requirement. The application would exceed what is required by local ordinance. Solicitor Frank said if this were just a site plan he would agree to only require them to comply with the ordinance. Since it is a use variance and the use is not permitted in the zone, the board really has to look at the potential negative impact and how the site is going to work and interact. It is appropriate that the board be aware of the ITE requirements and use that as part of their judgement.

Mr. Khan said there are some design waivers that are being requested. The first is access to the lots and the distance from the property line. The applicant is also requesting relief for the parking requirements for the size of the spots and the width of the drive aisles. The applicant is requesting relief from the buffer requirements. There is less than one foot because of the parking that was proposed on-site.

Mr. Roselli asked Mr. Khan to review the proposed site plan for the board and the public. Mr. Khan said the property is located at the intersection of West Fourth Street and Church Street. The building is pretty much centered on the property facing West Fourth Street. The applicant is proposing keeping the same building. There would only be some interior alterations as far as separating the prayer areas from the office areas. The outside footprint would remain the same. The applicant is proposing two driveways, one on West Fourth Street that will be a two way drive way. There will be a one way driveway on Church Street that would be one way exiting the site. There will be twenty parking spaces as part of the first phase. The spaces to the east are the proposed banked parking. There are nine. Mr. Buddenbaum asked if there would be curbing and what the ground surface would be for the banked parking. Mr. Khan said there would be curbing and everything else would be pervious grass pavers. Mr. Khan said there would be two handicapped spaces. There is an existing ramp that will be removed and replaced with a ramp that is fully compliant with ADA requirements. There is some landscaping proposed. There is an existing encroachment from the property on the back. The applicant plans to put some planting in that area.

Member Drangula asked where the proposed banked parking was located. It was indicated on the plan. Member Drangula asked what buffer would be between the parking spots and the residence located next to it. Mr. Khan said there is a less than 1' buffer. Mr. Drangula asked if there would be a fence. He asked what banked parking is. Mr. Khan said it was parking that would not be constructed unless the need arose. Even after construction these spaces would remain as pervious pavers. Member Drangula asked about people leaving the site at night once the parking is installed. He asked about the noise levels that close to the house. The lights going into the house would affect their quality of life also. Mr. Khan said the prayers can be done at home. The really die hard followers will go but for the most part people will do their prayers at home. The same goes for the night time services. He believes the noise level would be less that what is generated from traffic on West Fourth Street. Member Drangula said 1' from the house is very close.

Member Bott asked about how the lighting would be directed. Mr. Khan said it would be directed to shine downward. The light poles are not very high, they are about 10' high with shoebox type lights. None are positioned that they can shine on the neighbors. Everything is contained to the site. Member Bott asked when the parking survey was done. Mr. Khan said it was based on the space that was available in front of the property. They figured there was space for five parking spots there. Member Bott asked if there were cars parked there when the study was done. Mr. Khan said the person who did the study was not in attendance. Member Bott wanted to know if the neighbors use the spots the mosque is claiming. Mr. Khan said the day he visited the site he did not see any cars parked there. He wanted to emphasize the peak parking demand will be Friday afternoon and he anticipates the on-site parking would be plenty. Mr. Khan said the spots are in front of the property and they are not only for the mosque. It is first come first serve parking.

Member Bott asked why they would consider taking the five parking spots if they are already banking nine parking spots. Mr. Khan said the five were included to meet the ITE parking requirements. Based on the size of the congregation the parking will be adequate in the lot. If the demand for parking becomes too great, the banked parking will be used. Once that is at capacity the building would probably be too small for the congregation. Engineer LaRosa asked what would trigger using the nine banked spaces. Mr. Khan said if they noticed the parking on-site was at maximum they would then use the banked parking spots. Mr. Roselli said the reason the banking is proposed now is to create the buffer for the adjoining property. It is the applicant's position that the twenty parking spaces will be more than enough without having to use the banked parking spaces. They wanted to create the buffer and plan for potential growth. The ITE parking was based on the board engineer's request, but the position is that the requirement for the zone is 16 spaces and more than that is being provided.

Mr. Khan said he would like to discuss the lighting. All the fixtures will have back light shields and they would be directed downward. There would be minimal or no light pollution beyond the property. He noted on the plan the location of the stormwater detention basin that is proposed to contain run-off and to meet township requirements. The applicant is proposing a half-moon type perforated pipe system where the water would be collected from different parts of the pavement and existing roof drains and it would be percolated into the ground. Soil testing of the site was performed and the results were used to size the detention basin. Engineer LaRosa asked how long it would take the maximum it was designed for to drain through the system. Mr. Khan said it would take six to forty eight hours. Engineer LaRosa asked if that meant for a 100 year storm it would take six to forty eight hours. Mr. Khan said the requirement is seventy two hours, the application meets that requirement. He believes the percolation at the site is 10" per hour. Engineer LaRosa said it would depend on construction methods and the location on the site. The site varies as it is. Mr. Khan said he would agree to more testing if the engineer required. Chairman Zekas asked if the water got to the infiltration system by grading in the pavement. Mr. Khan said yes, and from the roof run-off. Engineer LaRosa said there are also inlets in the parking lot to capture the flow and pipe it into the system.

Solicitor Frank asked how much impervious coverage there was presently and how much was proposed. Mr. Khan said currently the coverage is 16%. The applicant is proposing 74.2%. Engineer LaRosa asked if this included the pervious pavers that are proposed. Mr. Khan said they are included in the 74%. Engineer LaRosa said on the plan it looks like more coverage. The banked parking will be a type of paver that allows the water to get through. That's a substantial area. Solicitor Frank asked what the land cover is where it is not impervious. Mr. Khan said it is grass.

Member Cartier said he was looking at the stormwater management report versus the grading utility plan. The report shows a different style drainage system than what was on the drawing. Mr. Khan said the plans were correct and were amended based on the board engineer's comments. Engineer LaRosa said it is very important that the tests that were taken were based upon the revised report. He suggested requiring there would need to be

samples taken where the revisions are proposed to be constructed before the work gets done to make sure there is the correct type of soils. Mr. Khan agreed to this.

Member Buddenbaum asked when the lights would be on. Mr. Khan said they would come on at dusk and go off when the prayers are done. The only time they might be on later is during the month of Ramadan. Member Buddenbaum said most likely they won't be at the site anyway if there are too many people. Mr. Khan agreed. He would not want to have the liability of exceeding the capacity.

Mr. Khan said there were no issues with any of the comments in Engineer LaRosa's review. The applicant can comply with all of them. Engineer LaRosa said there was language to make sure the storm drainage system is taken care of properly. There are recommendations for duration of maintenance. He noted the curbing is in close proximity to the adjacent house. There is a concern that water may get trapped between the curbing and the property line and the house. Typically grading would be done away from the house. There is about two or three feet between the curbing and the actual wall of the house. He asked how the applicant proposed to make sure the water doesn't pool there. The house roof might also drain toward the applicant's site. Mr. Khan said there is no basement in the house. He said the applicant will use grading to prevent it. Another solution is to have an opening in the curbing to allow the water to drain. Engineer LaRosa said he is concerned there would be an impact on the adjacent property. Mr. Khan agreed to work with Engineer LaRosa to be sure everything was done correctly.

Engineer LaRosa said the devices being used in the inlets themselves are required by the state to be DEP certified. Mr. Khan said they are certified. Engineer LaRosa said the applicant designed the stormwater management for the 100 year storm, which is the maximum amount of water that would come. They were able to meet that for sewerage and also for infiltration rates. The system drains down in less than 7 hours. The plan stated in an overflow situation it will come out the roof leaders. The lowest point on the site is typically where the water would come out, which is the inlets. Engineer LaRosa wanted to know how that would work and where it would run. Mr. Khan said there isn't a stormwater line on the street to tie into, the applicant can run a pipe to the curb. Engineer LaRosa said one inlet that is in the southeast corner is extremely close to the house. Based on elevations, that is the lowest point and that is where the water will end up. Mr. Khan said they would run a pipe to the street.

Member Buddenbaum asked if there was a possibility to use permeable asphalt. Mr. Khan said if there is a larger amount of permeable surface technically a detention basin would not be required. Engineer LaRosa said it is something that could be investigated. There are pluses and minuses with it. This application is more of a conventional system. The water is being collected and being put somewhere. There are problems with pervious pavement. If it is not maintained the pores clog up over time. He has seen it clog up in as quickly as a year or two. It is really used in places that don't have a lot of traffic, such as alleys.

Engineer LaRosa asked how the inlet would be constructed if it was part of the banked parking. He asked how a division for the asphalt and grass would be done until Phase II was completed. Mr. Khan said it will be graded in such a way as to promote the water to the inlet. Engineer LaRosa said he looked at the plan for the system and there is a maximum and minimum and it is good for traffic. Is it certified for heavier vehicles? Mr. Khan said it is certified and he would provide the documentation.

Engineer LaRosa recommended the drainage systems be tied together in case one fails. Mr. Khan agreed to do that. Engineer LaRosa said there were many comments regarding curbing. There were some curbs that were 90 degrees. He wanted them to be rounded. Also the site triangles need to be addressed. He asked if there were any environmental issues and if there was a tank there and was a Phase I Environmental Study done for the site. Mr. Roselli said as far as he is aware of there was no Environmental Study but there was an underground tank that was removed with permits. There were no leaks detected. A Certificate of Approval was issued by Florence Township in December 2014. Other than that there are no known contaminations on site. Mr. Khan did a geoweb search and didn't find anything.

Engineer LaRosa asked about trash and how it would be handled. Mr. Khan said at the southeast corner of the property there will be an enclosure for the trash and recycling containers. On pick up day the containers would be brought curbside for collection.

Member Bott asked if the applicant would be holding any dinners or similar events. Mr. Khan said any event that would be for a large number of people would be held elsewhere.

Engineer LaRosa said when he looked at the grading and the parking lot there were areas that were significantly less than three quarters of a percent. With asphalt paving a half of a percent is very difficult. It was something that would need to be addressed. Regarding the sewer and water, he recommended the lateral be TV'd to be sure it is working order.

The light posts that were shown are very close to the property line. He inquired about the foundations and recommended the lights be put on the break lines in the parking lot. They should be moved into the parking a little more. Engineer LaRosa said the placement of the lights near the residence is a big concern.

If the banked parking was used it would trigger the requirement of another handicapped parking spot. Mr. Khan said it has already been provided for. He would put a sign. Solicitor Frank questioned putting the handicap spot on the paver area. He doesn't think it would be in compliance. Engineer LaRosa said it also can't be there because it has to be close to the door. The second one needs to be near the first one.

Engineer LaRosa said his biggest concerns were the lighting and the drainage. Mr. Khan said they would correct the issues. Engineer LaRosa said he thinks it is going to be challenging.

Solicitor Frank said Engineer LaRosa acts as an advisor to the board. The board is obliged to look closely at the suitability of the site. This is an inherently beneficial use. It is presumed that the site is particularly suited to that use. But the potential negative impacts of the site have to be taken into account. The question is, looking at the issues that are there, can Engineer LaRosa be satisfied at this point that the site is genuinely designable or is it the case that there may be issues that could continue impact on the surrounding properties. He would ask the applicant to flush those items out before the board was asked to make a decision. Engineer LaRosa would like to see the final design before the board approves it. That would be his preference because there is a residence right next to the site. He would hate to see a drainage issue created that can't be fixed.

Solicitor Frank said that does not mean the testimony is done for this evening. Chairman Zekas suggested taking a short break and then hearing from the applicant's planner.

Chairman Zekas said Mr. Roselli would be calling his last witness, Mr. Miller and then Planner Fegley would probably have some questions for him. He would like to get some public comments. He said he would like to hopefully finish by 11:00 p.m.

Member Bott said the site used to be an old school, he didn't how old the school was, but he would worry about asbestos and he doesn't know what was kept in the basement.

Mr. Roselli at this time called Mr. Miller. He noted that Mr. Miller has testified before this board many times and asked he be accepted as an expert witness. The board agreed. Mr. Roselli asked Mr. Miller if he was prepared to testify regarding the use variance and bulk variance. Mr. Miller said yes and he wanted to add to his credentials that he has represented other mosques as well as a variety of other institutions. He is familiar with Islamic practices. He has been to the site and toured it and familiarized himself with the neighborhood as part of his preparation for this evening.

He said he wanted to begin with touching on the existing zoning. This property, and just this property, is zoned "S" which is school. The zone only permits schools and public playgrounds. It is an odd district in that it only permits one use. He thinks the township created it as a zone to identify where the public schools were and to create standards for the schools within the township. The surrounding zoning is RA, a residential district. The application would be a permitted use if it were anywhere within the neighborhood except for this particular lot. As a consequence the applicant needed to apply for the use variance.

He suggested that the use variance and bulk variances be taken together as one and argued simultaneously to help meet the time limit. Solicitor Frank added that the existing non-conforming uses would not require new variances. Mr. Miller concurred.

Mr. Miller said in terms of the use variance proofs there are two sets. The first is the Sica Balancing Test that is a four step process that identifies the benefits of the use, identifies any detriments of the use, discuss any mitigation measures and finally a balancing of the benefits versus the detriments. Until 2009 that was the only proof that was required for

an inherently beneficial use. At that point it was added that a review must be done to see if the proposed use is in line with the intended purpose of the zone plan. He would like to begin with the benefits of the use. The board has already had some introduction into that. The purpose of the Municipal Land Use law, which he believes this use would advance, is to encourage municipal action to guide the appropriate use and development of all lands in the state and to promote the public health, safety and general welfare. A religious use would fit into that purpose. Another purpose is to provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to respective environmental requirements in order to meet the requirements of all New Jersey citizens. The way this use advances this purpose is a number of ways. First, the use addresses a hardship which applies to this property. Once the school ceased operation the zoning left the property without any viable use. The use variance would overcome that hardship and allow a viable use of the property which otherwise wouldn't have one. A mosque, or any house of worship, is a use that promotes the public health in that it provides a place for the local Muslim community to come and carry out their religious obligations and pursue religious education. It is a protected right under the United States Constitution and there is a Federal statute that guarantees local land use controls cannot discriminate against religious institutions. The purpose of that law is to provide a statutory support for the constitutional right to freedom of religion. A religious use would provide many community benefits. There would be the community outreach and social services that any religious organization does. There would also be the educational and cultural benefits that are part of a religious use. This use would provide the Muslim community in Florence a place to worship, which is something they basically don't have at this point. This would address that need within the community.

In terms of the potential impacts of the use, it is a benign use in many respects. Most, if not all, of the activity occurs within the building. The only activity outside of the building is the parking. He believes the initial 20 spaces will be more than sufficient. The other impact that needs to be addressed is additional proofs that the drainage system will be adequate. Otherwise this is not an impactful use. The activity levels during the week are very low. The only times there is any significant activity is during the Friday prayer and that only takes place for an hour. There will also be the religious school on the weekends. It is very similar to the impact a church would have. The only difference is that instead of having the primary services on Sunday, they are being held on Friday. The religious school for the children is very similar to the religious instruction that any other denomination would have. The impact is similar to a church, which is a permitted use in the RA district.

The third step for the balancing test is to identify mitigation measures. For the most part there is not a great need for mitigation, but for the engineering questions about the drainage system. Subject to that, he does not believe there are any others. The only other one is the lighting but that could be resolved pretty readily just by some site tweaking to make it more sensitive to the neighbors. The final step of the balancing process is to ask, are the benefits greater than the detriments. Subject to the resolvable engineering issues,

the benefits are far greater than any detriments and the use would satisfy the Sica Balancing Test and warrant the board's approval.

That brought him to the negative criteria and whether there is a substantial detriment to the zone plan or the zone ordinance. The balancing test shows that the benefits far outweigh the detriments. There is also the issue that the current zoning is really no longer appropriate to the property because the school is no longer there. The site is too small to support a contemporary school. Most schools are 15 acres and upward. This site is not even an acre. There is no potential for the site to be used as it is currently zoned. There needs to be some form of relief so the property can continue to be useful. The second aspect is that the relief being sought would advance the zoning purposes that are protected by the federal statute. The impacts of this use are very consistent that are expected and accepted in the RA district. The RA does allow churches as a permitted use. This use is very similar to a church, if not identical. Most ordinances say house of worship and not churches. There other houses of worship within the RA zone. The RA zone does have the smaller religious uses spotted throughout. Many of them have formats similar to this one which is a building with a parking lot around it. Often the parking isn't as substantial as what is being proposed. These are impacts that occur in other areas of the residential zones. They are consistent with the code because the RA zone permits these uses. They are always subject site plan approval and the engineering standards but from a zoning perspective, the surrounding zoning is all RA, the impacts are generally accepted in that zone. There is no intention here to impair the intent or purpose of the zone plan because the zoning district is really no longer operative. The zoning in the surrounding area, which in all likelihood will be applied to this property, is RA and the house of worship would be a permitted use. The impacts of that use are considered to be acceptable within that district by virtue of the fact that it is a permitted use. The zoning relief is technical in nature due to the fact that the school zoning was carried even though the school use was abandoned.

Member Bott said the board does not have the authority to change the zoning of the property. Mr. Miller said he understands that, he is looking for a use variance. Member Bott said that Mr. Miller brought up the discrimination angle. He asked why it was mentioned. Mr. Miller said it was because one of the benefits of this use is that it is a means of complying with that federal statute.

Member Drangula told Mr. Miller that he made it sound like the only use that would be suitable for the site is a mosque or a church because the existing zoning is outdated. The zoning also allows for playgrounds or parks. There could be a small playground or park there. It could also be torn down and someone could build a house on the site. Mr. Miller said a private owner would be unlikely to put a park there because it would be a public use. In terms of a house, it would not be a permitted use either. This zone, which is created basically for public use, doesn't work very well once the property is in private hands. The private owner is not going to build a public facility.

Mr. Miller said there is a term that is used in planning and zoning that is "zoning in utility." That means the zoning cannot place the property owner in a position where he

can't use his property for a private use. That is what happens when the zoning only allows for a public school or park. That denies the owner the use of the property.

Solicitor Frank said it is the board's job to hear the proofs and make a decision. It is the Zoning Board of Adjustment and the board is able to make zoning adjustments when the need is justified. If things are fundamentally unfair the board is able to adjust. That doesn't mean the board will always approve. That is what the board is here to do.

Mr. Miller said there is another significant point. If you take that off the table the site still meets the criteria as an inherently beneficial use. It still meets the balancing test and there is no impairment to the intent or purpose of the zone plan. It is just another reason why he feels relief is merited. It is not by any means the only reason he feels the application warrants the approval of the board.

Member Drangula directed a question to Solicitor Frank. He asked if the property owner knew ahead of time that the zoning would impair him from using the site. He asked why someone would purchase the property knowing this was the case. Solicitor Frank said he could not answer to why anyone would buy or not buy something. The board needs to ask is it capable of contributing to the community in some way. If the zoning does not support that is there an appropriate alternative that is being proposed to the board that meets the criteria, by law, to be approved by the board.

Member Bott said the applicant said they don't have a place to worship but they don't meet in Florence Township. They meet in Bordentown and they are meeting. He said the statement that they have nowhere to meet is false.

Planner Fegley said she doesn't have an argument with the inherently beneficial claim of the application. She doesn't agree with some things that were addressed. There were other issues that were raised in her review letter that were not even touched upon. There is a lack of landscaping. There is a large amount of impervious coverage and it is very close to the adjacent residence. Any non-residential use would require a buffer from the parking. That is a significant detriment and a significant negative impact to the zoning plan and the zoning ordinance. The surrounding area only allows for 20% impervious coverage. She doesn't agree with the testimony and feels it will be a detriment to the zoning plan. There is too much impervious coverage, there is too much lighting and there is no buffer for the residents who are living immediately adjacent to the site. It would change the character of the area with no mitigation for the appearance or the landscaping.

Mr. Miller said he touched on that by talking about other churches within the residential area in the community. He found that typically they have sites that are similar to this one in terms of the parking, the lot coverage and the lack of buffering. It is difficult to provide buffering; they are relatively small lots. This facility will be comparable to other houses of worship in similar locations within the township. It would be nice to have additional buffering. He believes there are ways to offset the lack of wider buffer strips. An example would be using some fencing and landscaping along the perimeter to address

that. He believes that by using the balancing test it shows the application should be approved. The benefit of the use outweighs whatever impact that additional coverage would have. The impact would be softened or mitigated by perimeter landscaping and maybe some fencing.

Planner Fegley said that wasn't offered until she made her statements about how it would be mitigated. Mr. Miller said it was discussed internally and it would be part of the landscape plan and the lighting and those things.

Solicitor Frank said the board is being asked to decide on an application that balances things and that is not being presented to them fully. He is neutral and wants to make sure the procedures are followed, but the applicant can't ask the board to make a decision on something that is as of yet the subject of internal discussions among the applicant's design team. Mr. Miller agreed it would be premature to make a decision at this point. He believes there are some things that need to be addressed on the site plan before the board can make a full evaluation of the balancing test. Those are engineering issues that he does not have the ability to completely address. He agrees there needs to be something done to soften some of the impacts but the board does not have those in front of them right now and until those things are addressed it wouldn't be right to make a decision.

Solicitor Frank said when it is presented the board can decide if it does carry the balancing test that Mr. Miller is asserting that it does even without the information. Mr. Miller agreed.

Chairman Zekas said he believes the discussion will be continued and at this time he would like to open the meeting to the public.

Mr. Roselli said some of the issues for the engineer he thought would have been addressed during the testimony. Planner Fegley said there were things in her review that were not addressed. Chairman Zekas said he thinks the public has a good overview of what is being proposed. They may not have seen the plans but have heard a lot of information this evening. It would be beneficial to get some feedback on what has been heard to this point. It could be helpful to the applicant as they make modifications to the site plan.

It was the Motion of Bott, seconded by Drangula to open the meeting to the public regarding Application No. 2015-12. All ayes.

Nancy Erlston, 308 Boulevard, said her property is northwest caddy corner from the site. She wanted to address Mr. Miller's comment about the churches in the area and this being similar to those. Almost all of the churches in Florence Township are 100 years old. They have been there for a long time. No one had the opportunity to look at the site and to make sure they were workable. There are no buffers at existing sites and the board can't do anything about it. On this site the board has the ability to look at it and make sure they are not going to move to approve something that would be detrimental to the

surrounding neighborhood. She fully sympathized with the applicant and knows it must be very important to get a worship center. She just doesn't think this is the right place. The plan that was presented was way overbuilt and there was too much lot coverage. She is concerned about the lack of buffer between the site and the house right next door. She also doesn't think on-street parking can be used to satisfy the parking requirement. She thinks the group will outgrow the building very soon after having put all this effort into the site and then have to find a new place. Addressing the board, she said a use variance runs with the land. If it is approved as a church and the applicant outgrows it and leaves, another church with even greater issues that could be detrimental to the area could move in.

Betty Jo Swart, 212 East Broad Street, Burlington, said she is a member of the First Wesleyan Church on Fourth and Winter Streets in Florence. She said there has been a lot of talk about the school. She has grandchildren that are old enough for preschool but her daughter can't afford it. She asked why that wasn't addressed. She is a sexton at the church and when it rains and there is a lot of flooding it is hard to keep it under control. She has been a sexton at the church since 1985 and it is not easy to keep the flooding under control. She asked what would happen if there was a really bad storm and that was the only street she could use to get to the church. She asked what would happen if she wasn't able to get there to worship. She asked about noise pollution. It is not a problem right now but she doesn't know how it will be in the summer.

Theresa Testa, 445 West Fourth Street, Florence, thanked the board and professionals for asking questions. When she came to the meeting she didn't know what to expect but the information that has been provided made her feel better, but she does feel like it is putting a Wawa by her house. She said the reason for that is because there will be people there at different hours of the day all day long. She is aware of other mosques that are within driving distance. She is worried about congestion with the traffic, the impact that it will have on properties around it. She doesn't want to look out her window and see parking lots. The first Wesleyan Church is down the street and it has a child care center and it does have an impact on the traffic in the area. Her biggest concern is how this will affect the property value. She doesn't think it is worth it if they are going to be possibly leaving the site in five years. She lives directly across the street. It is a low density area. She does not agree the applicant should take five parking spots from the neighborhood. She asked if this was going to be decided this evening.

Solicitor Frank said he believes the applicant's representatives recognize that there are things that need to be answered that haven't been answered by the plans that were submitted so far. He thinks they will ask to be given an opportunity to return at a later date.

Solicitor Frank asked Ms. Testa what the parking is like currently on the street. He asked if there is a lot of parking by residents or are there a lot of spots available presently. Ms. Testa said there are maybe three spaces available. There may be one or two spaces available at certain times. Her concern is that people will be coming to the site five times a day. She asked about the traffic impact on the neighborhood. She asked where the

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driveways would be located. The applicant showed her on the plans where they would be.

Engineer LaRosa asked about off street parking on the street. Ms. Testa said there is an old driveway on the side of her house that she could use if she had to but it would need to be fixed. Her concern is the influx of people in the area. Twenty-five families is a lot of people. Engineer LaRosa asked if everyone on the street has only on-street parking. Ms. Testa said they do.

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

Member Patel asked how many spaces were required of the applicant. Engineer LaRosa said by ordinance there were sixteen required. Chairman Zekas said based on the testimony there would not be a lot of people coming for the daytime prayer service. He thinks in this case meeting or exceeding parking requirements in this case could be to the detriment of the project. There is a high percentage of coverage and there are impacts to the adjacent property that less parking could help ease. There are concerns with the drainage.

Mr. Roselli said he takes the position that sixteen is what is required and that is all the applicant would need. There are also no objections to making revisions and reducing the parking. Mr. Roselli asked the application be adjourned to the January 11, 2016 with no re-notice required.

It was the Motion of Bott seconded by Sovak to approve the applicant's request to continue the application to the January 11, 2016 with no re-notice required. All ayes.

Chairman Zekas suggested an architectural render of what the property would look like with parking and buffering. The plan view that was submitted was very helpful but a visual would also be helpful.

Solicitor Frank explained for the public the continuance to the January meeting.

CORRESPONDENCE

OTHER BUSINESS

PUBLIC COMMENTS

Motion of Lutz seconded by Drangula to adjourn the meeting at 10:36 p.m. Motion unanimously approved by all members present.

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Brett Buddenbaum, Secretary

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