

Florence, New Jersey 08518-2323
March 7, 2016

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

Absent: Margo Mattis

Also Present:

Solicitor David Frank
Solicitor Dennis Germano
Engineer James Biegen (for Engineer Anthony LaRosa)
Planner Barbara Fegley

Chairman Zekas said there were three applications on the agenda for this evening. He said he would like to go out of order and hear Application ZB#2016-01 for Ritchard and Patti Woolston.

At this time Member Bott recused himself.

APPLICATIONS

- C. Application ZB#2016-01 for Ritchard and Patti Woolston. Applicant is requesting a bulk variance to legalize an existing reduced setback for an existing private detached residential garage which was constructed within the required five feet setback from the rear property line on property located at 2050 Bustleton Road. Block 170, Lot 4.01.

Mr. Woolston was sworn in by Solicitor Germano. He said some time ago he built an accessory garage behind his home. Recently he found out that the survey he used was off and the garage was 8" off on one side within the setback and 4" on the other side. He was here this evening to request variances for the mistake. He provided photos for evidence. Photo A-1 showed a photo of the two different iron pins on the property. A-2

is a different view of the same pins. A-3 shows the distance between the pins and the space they were off. It was a difference of about 3'. Member Drangula asked if the pins were on Bustleton Road. Mr. Woolston said they were. Mr. Drangula asked Mr. Woolston if he used the pins to measure back to the rear property line. Mr. Woolston said he couldn't go to the rear property because it was too heavily wooded. Solicitor Germano clarified that one of the pins is 3' closer to the property line than the other. Mr. Germano asked the applicant if he left a little margin for error. Mr. Woolston said he did but it didn't work out.

Member Buddenbaum asked why the survey was done. Mr. Woolston said one of his neighbors questioned the placement of the garage. He doesn't feel there is an impact to the adjoining property since it is so heavily wooded. There might be wetlands or a wetlands buffer there. Solicitor Germano asked how far the neighbor's house was from Mr. Woolston's garage. Mr. Woolston said he couldn't say for sure, but estimated about 2,000'.

Mr. Woolston said there is about 100 acres of wooded property behind him. Mr. Germano asked if the garage was over the property line. Mr. Woolston said it was not, he just doesn't meet the setback.

Mr. Lutz said it appeared he was over the property line with the driveway or stone parking area. Mr. Woolston said it is. He presented Exhibit A-4, an aerial view of his property and the property behind his. Exhibit A-5 was presented. Mr. Woolston said it was taken from behind the garage. It demonstrates how wooded the area is. He presented another view from the opposite side of the garage showing the dense woods. It was entered as A-6.

Chairman Zekas said really the board is considering the rear yard setback from the back of the garage. There was a comment in the engineer's letter. There was mention of the woodshed adjacent to the metal shed. The engineer's report said this was an additional accessory structure and the use and potential need for approval should be discussed. Chairman Zekas asked the size of the wood shed. Mr. Woolston said he thinks it is 8'X8'.

Member Patel asked about the concrete pad that was on the property. Mr. Woolston said it was just a concrete slab that he doesn't use it. At one point he was planning to place a generator on the pad but he just never did.

Chairman Zekas said the applicant indicated he had stopped using the gravel parking area. He asked if the area had been cleaned up. Mr. Woolston said it was still the same.

It was the Motion of Lutz, seconded by Buddenbaum to open the meeting to the public regarding Application ZB#2016-01. All ayes. Seeing no one wishing to be heard, it was the Motion of Lutz, seconded by Buddenbaum to close the public hearing.

27.

Mr. Woolston said the building doesn't overshadow anything and there would be no adverse effects to the property owners behind him.

Member Drangula asked the applicant who owned the property behind him. Mr. Woolston replied John Carty.

Engineer Biegen said he has been on the property lines of several of the houses on that block that are in line with this property. As you approach the wood line the mosquitos get worse and worse. There are wetlands and he does not believe the area would be developable. Chairman Zekas asked if there was access to that property from Bustleton Road adjacent to the applicant's property. Mr. Woolston said there was not. Member Zekas said if someone would access it from another area they would be required to meet a 5' setback. It would be unlikely that they would put something that far back on the property because the entrance is on the other side. Mr. Woolston said on that property there is a drainage ditch from his property to Columbus Road. It ties into the church property and drains through there.

Chairman Zekas said the applicant gave testimony about the stone driveway that encroaches on the adjacent property. Technically it would have to be removed. Engineer Biegen said that would need to be resolved between the applicant and the owner of the adjacent property.

Solicitor Germano said the reason the applicant was talking about all of the woods behind his property and the significance of the engineer indicating that those are wetlands is to show the board one of the negative criteria. By granting the variance, there would be no substantial impact on the property behind the applicant. The likelihood of anything being built nearby would be very slim. And another negative criteria was to ask if granting this variance would do any harm to the Master Plan or Zoning Ordinance. The answer is that garages are permitted in the zone. The impact would have to be substantial to deny a variance because it doesn't meet negative criteria. When what is there is permitted in the zone to begin with it would have to be a pretty serious infraction to warrant not granting the variance. The reach in this application is the positive criteria. It is not a lot that is narrow or undersized. He believed the section he is reading now was prompted by a person he knew from his youth. The least used of the hardship variance is the following: where by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property the strict application of the zoning ordinance would result in peculiar and exceptional practical difficulties to the developer. If the board finds that this was an honest mistake and find that would qualify as a peculiar and unusual situation and that picking up the garage and moving it creates serious practical difficulty then that is a way to find that the positive criteria is met and the variance could be granted.

It was the Motion of Lutz, seconded by Buddenbaum to approve Application ZB#2016-01.

Upon roll call the Board voted as follows:

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

28.

NOES: None
ABSENT: Mattis

- A. Application ZB#2015-15 for Matthew Everett. Applicant is requesting a Use Variance to allow legalization and continuation of a non-conforming commercial use (roadside mechanic's business), as well as the construction of an approximately 30'X50'X16' pole barn to house both personal vehicles and equipment associated with the mechanic business on property located at 2030 Bustleton Road, Florence Township. Block 170, Lot 3.04.

Chairman Zekas said this was the continuation of the application from a prior meeting. He was already sworn in.

Mr. Everett said he found a property that he is buying and plans to move his business there. He anticipates closing on the property May 31, 2016. Chairman Zekas said when the hearing concluded at the prior meeting Mr. Everett was going to discuss with his attorney where he wanted to go with the application. The issues at the last meeting were to get approval for an existing use and to get a variance to build a pole barn.

Solicitor Frank asked if Mr. Everett was saying he did not wish to seek approval to continue to operate his mechanic business from home. Mr. Everett said that was the case, he would be operating it from another location. Solicitor Frank asked if he was still asking for the pole barn. Mr. Everett said he was still interested in pursuing permission for the pole barn. Solicitor Frank asked if he recognized there could be no commercial use of the pole barn. Mr. Everett said he knew that. Solicitor Frank said the board had before it a bulk variance for the oversized pole structure.

Member Bott asked what he would be putting in it if it wasn't going to be used for a business. Mr. Everett said he never planned to use it for his business. He said he was going to put cars in it. Mr. Bott asked if he was referring to the cars that were outside on his property. Mr. Bott questioned the need for a building that size for cars. Mr. Everett said he didn't think it mattered what he was going to put in there.

Chairman Zekas said his recollection from the last testimony was that Mr. Everett had two cars he wanted to put in the pole barn. He asked how many cars the applicant intended to have at one time that would warrant the size of the proposed structure. Mr. Everett said he anticipated having four cars stored in it.

Solicitor Frank said the application said the structure would be 16' tall. Mr. Everett said he estimated that. He was thinking the door would be 12'. Solicitor Frank asked why the door needed to be 12'. Mr. Everett said it didn't have to be 12' that's just what he put on the application. He said it could be any size. Solicitor Frank said he was thinking about the nature of the use and the potential for other use. The board has concerns about the use of the structure. A structure that has an 8' or 10' high ceiling wouldn't be capable of accommodating a lift.

Member Bott asked if he had a contractor to build the barn. Mr. Everett said he didn't because he didn't want to hire anyone before he had approvals. Member Drangula asked if he was withdrawing the application to have the business. Mr. Everett concurred.

Mr. Buddenbaum asked how far the new location was. Mr. Everett said it is about 15 minutes away. He would drive his personal vehicle there and get his work vehicle to go on calls.

Mr. Drangula asked if he was asking for a 16' peak. Mr. Everett said that was a guess because he wanted a 12' door. He said he doesn't have to have a 12' door. It would be nice to have to be able to accommodate a lift but it wasn't required.

Chairman Zekas questioned if this was the right place to figure it out. After the testimony of the prior meeting he left confused. He said he was now more confused. It might be in the applicant's best interest to proceed with the plan to move the business from the residence. He suggested also getting an engineer or architect to figure what he wants to request approval for.

Mr. Everett said he would like to return to the board after he moves his business. Solicitor Frank asked if he would like to return in June or July. He would need to amend the application and he would have to renote. He suggested the applicant ask to adjourn to the July meeting and provide details of exactly what he wants.

Chairman Zekas asked Mr. Everett if he had copies of the board professionals' letters that were sent when his application was submitted. Mr. Everett said he did not have them. Chairman Zekas gave his copies to the applicant. Chairman Zekas told him there were things in the reports he would need to address.

Chairman Zekas said at the last meeting there was a lot of public feedback. He asked if Mr. Everett listened to what was said during the meeting, and has he had any follow-up discussions with any of his neighbors. Mr. Everett said he has never spoken to any of his neighbors.

Chairperson Zekas said the applicant has requested a continuance. Solicitor Frank said the applicant would like to be adjourned to the July meeting and will be subject to re-noticing that specifies what it is that the applicant is proposing. It is the applicant's expectation that at that time he would have closed on his commercial property.

It was the Motion of Lutz, seconded by Bott to open the meeting to the public regarding Application ZB#2015-15.

Joseph Stella, 2032 Bustleton Road, provided some exhibits to show what the neighbors have been through. With the help of the Township Code Official and the Florence Township Courts the property has gone through a lot of clean up. Approval or disapproval of the business is a different issue. The residue of his business ends up on the property and there are piles and piles of junk. He has a set of pictures that were taken

by the code official. They show what the property looked like before the first violation. There has been a lot of clean up. He was afraid if the business continued, which now it isn't, the property would go back to the former condition. He provided the pack of photographs that were entered as Exhibit O-1. There are many vehicles on the property that are covered up. They are not operational but to him they are scrap. Mr. Everett may see his reconditioning them but he hasn't seen anything come out of there in 15 years reconditioned. The pole barn, if it is allowed, will just give him an opportunity to work on the property. He does that now. There are photos of him working on commercial vehicles.

The second set of photos show what the property looks like today. A truck just showed up the other day. The pole barn will just be another area where debris will accumulate. There are two businesses. There is the business that generates all of the junk that will sit there for years and there is a firewood business. The noise is unbelievable. The trucks that deliver are very large and cranes are required to deliver the wood, it's so big. And there are hours and hours on end of the noise from chainsaws. Some of the wood is taken off the property and he doesn't know where it goes. The truck he uses for work is very big. It is there every day and he can hear it every morning. He said he would return in July. If he needs a pole barn for his hobby it doesn't need to be that big. And everyone else in the area has the pole barns on the back of the property. He would like to see some requirements about where the pole barn would be placed.

Fred Heydorn, 2018 Bustleton Road, said he would like reiterate some of what was said. The family has no consideration for authority. When they are told to do something they say okay and then just go back to what they were doing. He would like the board to consider that. He presented into evidence a photo. He said if you Google Mr. Everett's address it comes up as a business. It was entered as Exhibit O-3. He requested the board to think hard. The applicant may say he is building the pole barn for a few cars but he's not.

Carla McGurk, 2028 Bustleton Road, said the applicant continuously changes what he is asking for. She thought it was important to note that the original application sought continuation of his business. He knew he had been running an illegal business. She hopes he does move it off site. She doesn't want the burden of proof to be on the neighbors. They have already been trying to prove what is going on and they haven't been very successful until now, and it was his own admission, not from something the neighbors did. She wanted some assurance that if he is permitted to build the barn that the neighborhood will not have this ongoing problem. The firewood is also an issue for her. The trees dropped on the property have literally shaken her house.

Mr. Stella said it seems like everyone will be coming back in July unless the board sees fit to say it's not going to happen. It is just dragging on and on. Solicitor Frank said in regard to the board just issuing a denial, he thinks the applicant needs to be given the opportunity to express just what he would really want for his hobby use. The board has the obligation to give the applicant the opportunity for due process.

31.

Michael McGurk, 2028 Bustleton Road, said he is concerned about property value. He would like to see applicant finish old projects before he starts a new one. He would like to see projects that were started on the house finished. There are several different stages of renovations and nothing is completed.

Mr. Everett said he uses the wood to heat his home. Member Bott asked if the pictures were accurate. Mr. Everett said they were taken so he guessed they were. Member Bott asked if he was in the scrap business. Mr. Everett said he was not. He has to take stuff away from the jobs he does. He takes it and gets rid of it. Mr. Everett said he had problems with Mr. Heydorn and Mr. Heydorn assaulted his son and other kids.

Chairman Zekas said he would strongly suggest that the applicant come in with a clear application for the July meeting so the board can hopefully take action.

It was the Motion of Patel, seconded by Lutz to grant the applicant's request to be adjourned to the July meeting.

Upon roll call, the Board voted as follows:

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

NOES: Bott

ABSENT: Mattis

- B. Application ZB#2015-16 for 150 Alden Property-Florence LLC. Applicant is requesting use and bulk variance to permit conversion of existing pizza restaurant with one residential on the second floor to five (5) residential units on property located at 150 Alden Avenue, Roebling. Block 118, Lot 7.

Rosalind Westlake appeared representing the applicant. She remained sworn in from the previous meeting. At the end of the last hearing it was decided that the applicant would reach out to the township administration and see if they would like to use the five units toward their affordable housing obligation. The township advised the applicant that there is more than sufficient affordable housing in that area. Based upon that and the comments that were made at the last hearing, the applicant redesigned the application. It is now four units instead of five. Instead of five three-bedroom units there will be three units with three bedrooms and one with two bedrooms. This reduces the parking requirement from 11 spaces to 8.

Solicitor Frank said the township is continuing its efforts to seek affordable housing and developing affordable housing. In this particular neighborhood there were already approvals for a significant amount of it. It is the policy of the governing body to distribute the affordable housing throughout the community and not concentrate it in any one neighborhood.

Ms. Westlake called for Laurence Murphy, who remained sworn in from the previous meeting. Mr. Murphy submitted the revised plan as Exhibit A-4. He heard the board's comments at the last meeting regarding the size of the units and the size of the bedrooms.

There is also storage proposed in the units and also separate storage. On the first floor one unit was eliminated. The first unit is 1,100 sq. ft. The second unit is 1,363 sq ft. There are two storage units specifically reserved for the upstairs units. They are 4'11"X11'. Walking through unit 1, with the entrance being off Alden Avenue, there is an open concept plan. It is 31' deep by about 13' wide. There is a living room, a bedroom on the left that is 10'X14' with a 10' wide closet. Going toward the kitchen there is a full bathroom on the left that is ADA Adaptable. The kitchen has an island with seating on the island. Further on there is another bedroom that is the same size as the first one. At the back of the unit is the master bedroom. It 12'4" X14'3", which is also a good size. A queen size bed would fit in any of the bedrooms. There is a powder room and laundry room. There is additional storage space there. The architect kept that in mind in laying out the units.

He moved on to unit two. The entrance is off the courtyard. It enters into the kitchen, which also has an island. It is an open space concept. There is an approximately 30' wide walk space. It is sizeable. The laundry room is 8'X11'. There is room for storage. Down the hall there is a bedroom on the left that is 10'X11" and on the right is bedroom two, which is 16'X11'. The back bedroom is 13'9"X10' and has a bathroom. There is a powder room located off the dining room and living room. These are very generous sized units. Upstairs are the two other units. Entering unit three there is a bedroom on the left that is 13'9"X8'. There is an 8' closet. The kitchen has a seating area. There could be an island, it just wasn't shown. The living room is a decent size. There is a laundry room on the right with storage at the back. Not only is there storage for these units on the lower level, there is also storage in the units themselves. There a powder room. The first bedroom is 8'X12'. The next is 10'2"X13'4" wide. Unit four has a kitchen entrance. The kitchen is 8.5'X10'. It opens to the living room that is 12'X13.5'. There is a laundry utility room. There is a storage room in this unit that is 5.5'X7'. Down the hall there is a linen closet and a bathroom and a bedroom that is 8.5'X11'8". The master bedroom is 12'X14'. They are nice sized units. He and the architect looked at the possibility of having three units. There would be and 1800 sq. ft. apartment on the second floor which is huge. That isn't what the applicant was looking for. If there were one unit downstairs it would be 2800 sq. ft. They concluded that would be feasible either.

The parking demand would go down to 8 spaces. RSIS requires 8.3 and ITE says 7.76. He has done additional data points since the last meeting. He used the entire length of Alden Avenue instead of delineating. He used the minimum of 23' spaces to define the space available. Over all 17 data points that were taken over the course of the hearings indicated that 43 cars are parked there on average. The average available spaces in the 8 recent data points were 30.5. During the week the average number of cars parked was 39. Member Bott asked what time of the day the data was collected. Mr. Murphy said it was at different times of the day and night.

Member Patel said if the square footage of the two top units is added together it is larger from the last time. Mr. Murphy said he talked to the architect about that and there are a few different ways to measure. Some do it inside the walls and some do it outside. He

thinks the architect went with the outside to measure. Chairman Zekas agreed that with either number it would still be a very large apartment.

Mr. Murphy said on the weekend, not during mass, the average number of cars parked is 42. The maximum observed was 51 cars. The minimum number of available spaces was 31 on the weekend, not during mass. During Sunday mass the average number of cars was 56. The maximum number of cars observed was 69. The available number of spaces at that point was 22. The data points also depend on how efficiently people park. He measured the street and divided the number by 23 to get an accurate count of the number of spaces. There were 76 spaces for both sides. They took into account fire hydrants and crosswalks. Mr. Murphy said there was an average of 30.5 spaces available.

Member Bott said when the bar on the corner opens the patrons will be parking on the street. There is limited space in the parking lot across the street. Member Buddenbaum said most of the data points are in the morning. There was only one on the weekend and it was still for only 45 cars. Member Buddenbaum asked Member Bott if he was concerned about the parking on the street during the evening. Member Bott said he was concerned about the church parking lot and that it wasn't included in any of the counts. Member Buddenbaum and Chairman Zekas said it should not have been included because it is private parking. Only the street parking can be counted. Member Bott said he is concerned about overflow from the parking lot.

He expressed concern about the bar on the corner opening. He noted there was work being done to the building. The parking from there will overflow onto the street. Member Buddenbaum agreed it would have an impact on the weekend nights.

Member Drangula expressed concern about cars that were parking on Hornberger Avenue illegally that may be forced to find other parking. He thought they would start parking on the side streets.

Solicitor Frank said the board is speculating about the bar reopening. He said they need to think about the potential of the pizzeria reopening in this building. Chairman Zekas noted there was seating for 85. Mr. Murphy said if the pizza place reopened and the bar reopened there would be a problem parking on Alden Avenue. It would be much worse than the apartments.

Member Cartier asked about the utilities. Mr. Murphy said there would be a single forced hot air unit that was a single zone. Member Cartier asked where it would be. Mr. Murphy said the heating units would be in each unit itself. There is going to be a sprinkler room that would house the hot water heater. Mr. Cartier said this would take away from the storage.

Member Buddenbaum asked about the size of the stairway. He asked if the size was increasing. Mr. Murphy said it is the existing stairway. Member Patel said he was still concerned with the size of the bedrooms. He thinks they are still too small. Mr. Murphy said people don't spend a lot of time in the bedroom so it doesn't have to be big.

Member Buddenbaum asked how many bedrooms were in the building total. Mr. Murphy said there are 11 total. Member Buddenbaum said he thought there would be more than the estimated 8 drivers. Mr. Murphy said the trip generations report estimated it lower and the light rail is very accessible and there is bus service close by. He thought some the tenants would use the light rail for transportation. Member Buddenbaum said looking at the size of the apartments and what the rent could possibly be, he didn't see these tenants being ones that don't drive.

Member Bott said each unit has the potential of two adults each with a car. There could also be a child old enough to drive so there is the potential for three cars. There could also be two children of driving age so there is also the potential for four cars. Mr. Murphy said if someone had the means to pay the insurance and associated costs they would probably move to a larger property in a nicer area. Member Buddenbaum said as a board member he has to assume the worst. Member Drangula said on Second Avenue and Eighth Avenue there is parking on both sides of the street with houses only on one side and there are still parking issues. Member Buddenbaum agreed.

Mr. Murphy said the difference on this street said there are houses on one side and the church takes up a large portion of the street with a parking lot that takes up another large portion of it. He said looking at certain areas in Roebing there are definitely parking problems. This street doesn't have the characteristics that he had seen in other areas of town.

Solicitor Frank said in the NC Zone businesses are allowed, as are single family homes. The applicant could convert this property into one single family unit without permission from the board. He asked the engineer how many spots would be required for a five bedroom dwelling and the answer was 3 required parking. The discussion is really about the difference between 3 and 8 parking spots. The 5 space differential is the amount the applicant would need to find on the street. Mr. Murphy said any commercial use would have a significantly greater parking demand than 8 spaces.

Mr. Drangula asked if the fire hydrant in front of the building could be relocated. Mr. Murphy said it probably could but it still needed to be located in that area and it would still occupy the same amount of space. Relocation would move the no parking area down the street and to the other side. Right now it is close to mid-block so it works well for the hose length.

Member Bott asked if the applicant surveyed how many single family homes there were and how many apartment buildings there were. Ms. Westlake said there was testimony provided previously by the planner but he could provide it again if needed. Chairman Zekas asked Member Bott if he needed to hear the testimony again. Member Bott said he didn't remember hearing it, but it was not necessary if it was in the record already.

Ms. Westlake said the applicant received revised reports from the board professionals. Her understanding was that the Engineer's Report simply identified the change from five units to four, and noted the change in the parking requirement from 11 spots to 8.

She noted Ms. Fegley's report had some additional comments. The item regarding de minimus parking, she deferred to Solicitor Frank's opinion that it was not applicable because the applicant is not required to provide on-site parking if they can provide available off-site parking. Under the RSIS they are not required to provide any more than 8 spaces.

Comment 8 under General Comments in the report dealt with the building façade. Ms. Westlake said the Historic Commission asked for the applicant to keep the same general exterior. They are happy to abide by what the commission would like. They did express a desire to have the sign. The applicant would also be willing to work with the planner on the façade. As far as landscaping, there would be 6 to 8 plants. The applicant would again work with the planner. They do intend to provide a small green area. There would be a bike rack provided along with the storage space. Based on the board's comments at the last meeting, the applicant agrees to provide one bin per unit and also a recycling container for each unit. Mr. Bott asked where they would be located. Mr. Murphy said it was noted on the use variance plan. He said it would be on the eastern façade. Member Bott asked how the recycling would be picked up. Mr. Murphy said the tenants would bring the containers to the curb. There will be landscaping in the area of the trash enclosure. It won't be seen from the street. Member Buddenbaum was concerned with how well the landscaping would hold up with the traffic to and from the trash enclosure. Mr. Murphy said there could be a fence installed so if the landscaping does die the enclosure would still be hidden from view.

Ms. Westlake said the mailboxes would be mounted on the front corner of the building. All units are ADA adaptable. Mr. Murphy said the upstairs units would be adaptable but the stairs would be hard for someone in a wheelchair to access. Downstairs would be fully accessible.

Chairperson Zekas asked if any of the professionals had any questions for Mr. Murphy. Planner Fegley asked if curb cuts were taken into account regarding the number of parking spots. Mr. Murphy said they were, as were the fire hydrants.

Engineer Biegen said the three bedroom apartments require 2.1 spaces. That does account for the half a guest space per apartment also. That becomes more accurate with larger apartment buildings.

Michael Pessolano, who was previously sworn in, was called by Ms. Westlake. He said he wanted to reiterate that he felt the original proposal of 5 units was appropriate for this location. He took another look at the relative density on Alden Avenue. Four units is compatible for the area. He was impressed with the improvements in the plan, that were done in response to the board's excellent comments. The application represents a reduction in the parking requirement. He thought the board's comments were addressed

with precision. The application not only represents new modern housing for four families. It brings a sense of vitality to the area.

It was the Motion of Lutz, seconded by Buddenbaum to open the meeting to the public regarding Application ZB#2015-16. All eyes.

Michael Bunnick, 12 Seventh Avenue, said he was here to represent St. Mary's Romanian Byzantine Catholic Church, that is located at 180 Alden Avenue. Solicitor Frank swore him in. Solicitor Frank said asked Mr. Bunnick if he was an attorney admitted to the practice of law in New Jersey. Mr. Bunnick said he was not. Solicitor Frank said officially he was not able to represent anyone or any entity. Mr. Bunnick said he was there as a council member of the church.

Mr. Bunnick said at 180 Alden Avenue there is the church property and the yard next to it. There were always parking spots on Monday. He feels there will definitely be a parking problem. He said he the applicant is required to provide 8 to 11 parking spots and that is exactly what the church uses. If there is overflow it goes into St. Nicks. Liturgy starts at 8:30 every Sunday morning. St. Nick's starts at 8:00am. That is a prime time for parking. His concern is for the parishioners. They are elderly and all the close spots are going to be taken. The people in the apartments may have guests, so that would mean more cars on the street. He estimated there are about 11 spots near the church.

Chairman Zekas asked if his church had the parking lot off Alden Avenue. Mr. Bunnick said the church has a fenced in yard. It does not have a parking lot. There are also social events at the church. Member Buddenbaum asked what would be the worst case scenario on a Sunday morning at 8:30. He noted that it would be very rare that both churches would be having an event and the club would be open all at the same time. Mr. Bunnick agreed that would be a rare occurrence. Member Buddenbaum referred to the traffic data. One of the surveys was done on a Sunday morning and there were 50 cars on the entire street and both churches were holding services. Mr. Bunnick said this past Sunday the church was packed and there were cars parked down the hill and in the Saint Nick's parking lot. It was standing room only in the church. There are going to be more and more people. The renters will not reserve spots for the church members. He said he grew up on the avenues in Roebling. Everyone respected your spot because that's the way it was then. Now, people just park anywhere. Member Buddenbaum said he understood that, but the board is trying to find the lesser of two evils. Mr. Bunnick said he felt the church should be given some consideration.

Member Drangula asked if it would be possible to reserve parking for the parishioners on Sundays. Mr. Bunnick said the church has that now in front of it. It is done as a safety measure. There is no parking in front of the church in case there is an emergency. It is about the size of 1.5 spaces. Solicitor Frank said the board does not have the ability to reserve parking for the church. Solicitor Frank said that would have come from the Township Council.

Member Drangula asked if the churches could stagger their mass times and both use the lot at the top of the hill. Mr. Bunnick said his church has a shared priest and he does a liturgy in Roebing at 8:30am and then goes to Trenton to deliver a 10:30am liturgy. It would not be practical to try and alter mass times.

Chairman Zekas said Mr. Bunnick needs to recognize one of things he heard from the planner and that the board is debating is that there is an approved use now that could potentially have 45 cars. Solicitor Frank said the problem is that it is a restaurant. It is possible that an owner could open for Sunday brunch. They could do that without coming to any boards for permission. The potential for that to overwhelm the parking on the street is already there.

Mr. Bunnick said there is a given right now that the church members come to church and have their spots. All of a sudden there will be no spots. Member Buddenbaum said this is an ongoing problem in Roebing. If every building on the street were occupied, which could happen, than it would be much harder to park. When the buildings were built there weren't as many people driving. Mr. Bunnick said he wanted to let the board know the feelings of the church. He said there are services throughout the week and there can be up to 60 people. The parish is doing well and has been there for 104 years. He thank the board for their time.

Keith Crowell, 74 Creekwood Drive, was sworn in by Solicitor Frank. He looked at what was proposed and he recalled that over the years this board discouraged single family homes being cut into two family homes. Here there is an applicant that wants to cut a property into an even higher density. He said he is not necessarily against the application. He is trying to discern why there is such a big concern about making a single family home into a two family home, when this property is going to be 5 units. He sees it as an issue. He hadn't heard anything this evening about an inherently beneficial use. He didn't read or hear anything about the positive criteria associated with the variance. He also didn't see or hear anything about the negative criteria associated with the application. He felt those were the things that really needed to be considered. The parking is an issue. There are houses in the community lying dormant in the community because people want to make them two family properties. They could come back onto the tax rolls and no longer potentially be foreclosed on. He said it needs to be considered. He wasn't blaming the board but was stating a fact. If the board was considering this application it should also consider taking properties that could be higher ratables and making use of them. He would like someone to expound on the issues he inquired about.

Solicitor Frank said this application was not proposed as an inherently beneficial use. It was proposed as a D1 Commercial Use Variance. Mr. Crowell said it would be subject to the positive and negative criteria. Solicitor Frank said he heard from the applicant's planner regarding his perspective on the criteria last month. Mr. Crowell asked for someone to testify regarding the same. Solicitor Frank asked if he would like it reiterated. Mr. Crowell said he would. Solicitor Frank didn't know if the applicant would like to have their testimony re-presented. Ms. Westlake said it was a rather

extensive 5 page report that presented. Chairperson Zekas agreed it was a very extensive presentation. Mr. Crowell said a brief overview would be helpful.

Mr. Murphy presented a brief summary of the testimony from the previous hearing. He said the site is suitable because of the dense residential development on the street. It upgrades the property and there is efficient use of land. As far as negative criteria there were no detriments to the proposal because of the unique aspect of the site and it becoming a less intensive use of what is already proposed. It is in a residential area and it is near mass transit. This is a perfect fit in an area that has long been residential even though it zoned Neighborhood Commercial.

It was the Motion of Lutz, seconded by Cartier to close the public hearing on Application ZB#2015-16. All ayes.

Ms. Westlake said there were changes made to the application since the last hearing. The applicant's professionals worked very hard to take all of the comments made by the board and it's professional staff into consideration and incorporated them into the application. They were excellent comments and made a lot of sense. She thanked them for their time.

Chairman Zekas said one more aspect of the positive criteria is that the intensity of the proposed development has actually lessened in the proposal from the approved commercial use.

Planner Fegley said all her questions were answered. She had a number of questions at the last hearing. The applicant's professionals indicated that the properties in the area were mostly one, two, three and four units and not five. The applicant has reduced the number of units from five to four. She liked that aspect. Also, the use would be a lot more intense with the approved commercial use. This plan enlarged the bedrooms to make them more compatible with what the ordinance requires.

Chairman Zekas said there was some testimony about landscaping. He asked Planner Fegley what her impression was of it. He noted that most of the area is paved. Mr. Murphy said it would be planters. Planner Fegley also requested some plantings in the back. The applicant agreed. They will use light tolerant plants and will consult a landscape architect.

Engineer Biegen said as far as the comments in his reports, everything was addressed and he had no additional comments.

Chairman Zekas said parking is always a discussion item for so many applications. It is a shame there aren't any statistics available for the proposed units for a point of reference. He recalled there was a five unit building at the bottom of the hill and he drives by there and he believes there are two cars associated with it. Solicitor Frank said that was brought to the board specifically with the idea that it was transitional housing and there wouldn't be many cars.

Solicitor Frank said the ITE data is supposed to be real world information. The problem is in the sample side. It works for a 100 unit apartment complex. It is hard to apply in this context. The difference is 5 spaces. The other side of it would be the 45 spaces required for a restaurant. Someone could pull a building permit tomorrow and open Sunday brunch restaurant and impact the parking.

Solicitor Frank said there is a D1 Use Variance and there are many existing non-conforming bulk standards. There needs to be a decision about if the parking can be adequately accommodated without having too much of a negative impact on the neighborhood. There were some conditions discussed if the board were to approve the application. There would be additional recycling containers provided. The applicant would have to comply with the Fire Marshal's report. The lighting would be compliant and on from dusk to dawn. The applicant would comply with the Historic Commission recommendations and provide a bike rack outside. The landscaping would be subject to administrative review and approval by the board planner. The screening of the trash and recycling area was discussed and the applicant would provide fencing. All units will be ADA adaptable. Mailboxes will be located on the front of the building.

Solicitor Frank said there was discussion regarding whether or not this was a de minimis exception because it is providing existing parking. He recommended sending a letter to the DCA that says there would be a de minimis exemption and the reasoning for it. It will probably not be commented on but the board will have done what was required.

Chairman Zekas said the applicant put together a good package and had a nice presentation. He asked if any of the board members had any questions. Member Drangula said the applicant did have a good presentation and did try to accommodate the comments of the board professionals with the revised plan.

It was the Motion of Lutz, seconded by Zekas to approve Application ZB#2015-16 with the conditions outlined.

Member Patel said he would like the top unit to be two bedrooms. He asked if that was something that could be worked out with the professionals. Ms. Westlake said it was something that could probably be done. Solicitor Frank asked if the applicant was willing to accept an amendment to the motion to require it to be a two bedroom unit. Ms. Westlake said they would accept the amended motion.

Member Lutz did not amend his Motion to approve. He Motioned to approve the application as presented with the noted conditions. It was seconded by Chairman Zekas.

Upon roll call the Board voted as follows:

YEAS: Buddenbaum, Lutz, Sovak, Zekas

NOES: Bott, Cartier, Patel

ABSENT: Mattis

40.

Member Bott said he wanted to explain his vote. He had reservations regarding the parking. It is hard for him to make a decision because he doesn't feel right about the whole thing. The applicant did present a very solid case, but he still did not want to approve it.

Member Buddenbaum said he does agree with the idea of two bedrooms for the upstairs bedroom, but he doesn't think that would keep him from approving it.

Member Cartier said he voted no because of the parking issues.

Member Sovak wanted to explain his vote. If the site keeps the current zoning there could be a restaurant there. This could be approved with 8 spaces, or there could be a vacant property. Based on that he voted to approve.

Solicitor Frank said there are three opposed and four voting yes. For the use variance to be approved there needed to be five affirmative votes. The options are to leave it as not approved or see if there is some agreement the board could come to regarding the reasons the members voted no.

Member Bott said something was brought to his attention and he would like to change his vote to yes.

Solicitor Frank said that meant the variance was now approved was approved with the conditions that were described.

RESOLUTIONS

- A. Resolution ZB-2016-05 continuing the application of 150 Alden Avenue Property-Florence, LLC for a Use Variance and bulk variances to permit conversion of existing pizza restaurant with second floor apartment to 5 residential units on property located at 150 Alden Avenue, Roebling Block 170, Lot 4.01.

It was the Motion of Lutz, seconded by Buddenbaum to pass Resolution ZB-2016-05.

Upon roll call the Board voted as follows:

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

NOES: None

ABSENT: Mattis

MINUTES

It was the Motion of Lutz, seconded by Patel to approve the Minutes of the Regular Meetings of November 5, 2015 and December 7, 2015 as submitted. All ayes.

CORRESPONDENCE

OTHER BUSINESS

41.

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

Larry Lutz, Secretary

/ak