

1.

Florence, New Jersey 08518-2323
January 11, 2016

The Reorganization/Regular meeting of the Florence Township Board of Adjustment was held on the above date at the Municipal Complex, 711 Broad Street, Florence, NJ. Solicitor David Frank called the meeting to order at 7:30 p.m. followed by a salute to the flag.

Solicitor Frank 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."

Solicitor Frank administered the Oath of Office to Larry Lutz to a four year term expiring December 31, 2019, Joseph Cartier to a four year term expiring December 31 2019, both as regular members of the board and Anthony Drangula as Alt. #1 for a two year term expiring December 31, 2017.

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
Engineer Anthony LaRosa
Planner Barbara Fegley

Solicitor Frank called for nominations for Chairman of the Board for the year of 2016.

Motion of Lutz, seconded by Buddenbaum to nominate B. Michael Zekas as Chairman. There being no further nominations motion was made by Bott, seconded by Lutz to close nominations. Motion unanimously approved by all members present. Member Zekas accepted the nomination, thanked the Board and was seated as Chairman.

It was the motion of Lutz, seconded by Bott to nominate Anant Patel. There being no further nominations motion was made by Lutz, seconded by Buddenbaum to close the nominations. Motion unanimously approved by all members present. Member Patel accepted the nomination and thanked the Board.

Chairman Zekas called for nomination for Board Secretary. Motion of Buddenbaum, seconded by Patel to nominate Larry Lutz. Hearing no further nominations, motion was

2.

made by Bott, seconded by Cartier to close the nominations. Motion unanimously approved by all members present. Member Lutz accepted the nomination and thanked the Board.

Chairman Zekas called for nominations for Board Clerk. Motion of Lutz, seconded by Buddenbaum to nominate Nancy Erlston as Board Clerk. Hearing no further nominations, motion was made by Lutz and seconded by Bott to close the nominations. Motion unanimously approved by all members present.

Chairman Zekas stated that the Board would now move on to the appointment of the Board Staff. He called for nominations for Board Solicitor. It was the motion of Patel, seconded by Buddenbaum to nominate David Frank. Hearing no further nominations, motion was made by Lutz seconded by Cartier to close the nominations. Motion unanimously approved by all members present.

Chairman Zekas called for nomination for Board Engineer. It was the motion of Bott, seconded by Cartier to nominate Anthony LaRosa. Hearing no further nominations, it was the motion of Lutz, seconded by Patel to close the nominations. Motion unanimously approved by all members present.

Chairman Zekas called for nomination for Board Planner. It was the motion of Patel, seconded by Lutz to nominate Barbara Fegley. Hearing no further nominations it was the motion of Lutz, seconded by Groze to close the nominations. Motion unanimously approved by all members present.

RESOLUTIONS

Resolution ZB-2016-01

Authorizing the appointment of Zoning Board of Adjustment Solicitor, Engineer and Planner

Resolution ZB-2016-02

Establishing the Annual Schedule of regular meetings and other policies relating to the New Jersey Open Public Meetings Act.

Resolution ZB-2016-03

Adopting rules and regulations for submission and review of applications before the Florence Township Zoning Board of Adjustment.

Motion of Lutz, seconded by Sovak to approve Resolutions ZB-2016-01 through ZB-2016-03. All ayes.

APPLICATIONS

3.

- 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 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.

Chairperson Zekas called the applicant and his attorney, Aaron Liller. Mr. Liller said after he received the planner's letter today and subsequent to conversations with Solicitor Frank, he felt it was appropriate to amend the application to a Residential Accessory Use Variance. His client originally applied for the permit to build the pole barn to alleviate code enforcement violations he was being cited for as a result of neighbors' complaints. He was cited for scrap metal, debris and abandoned vehicles on the property. The proposed pole barn would allow his client to store these types of materials inside as opposed to outside in the public eye. The pole barn would also allow him to work on personal vehicles, which he does as a hobby. His client does store commercial vehicles on his property and has done so for the past eighteen years. If the board deems it necessary for him to seek permission to store his commercial vehicles on the property then he will do so. He asked the board to consider a few things before it makes that determination. Florence Township is a blue collar town. It is filled with construction workers, contractors, plumbers, electricians and HVAC workers. A simple drive around town would reveal countless other vehicles like his client's. To require his client to apply for a Use Variance to store the truck on the property would be opening a Pandora's Box. Many residents do have similar vehicles and use those vehicles for similar purposes, to get to and from work. As stated previously, his client has parked the vehicle in his driveway for eighteen years without a complaint. It is important to note he has not been cited for parking his vehicle. Additionally, he uses the vehicle to get to and from work. He also uses it for personal use. He has two other vehicles on the property that his son and his wife use. Mr. Liller attested to this because every time his client came to his office he was driving the truck. The truck in question is not the cause of the complaints, but rather it was car parts and debris in the yard. The proposed pole barn resolves the problem and it does so in an aesthetically pleasing manner. It would be similar to other structures throughout the township and even on the very same road. If the board deems it necessary his client would apply for the additional variance regarding his ability to store his truck on his property.

At this time Mr. Liller asked for testimony from his client, Mr. Everett. Mr. Everett was sworn in by Solicitor Frank. Mr. Liller asked Mr. Everett his address. He replied 2030 Bustleton Road. Mr. Liller asked how long he has lived there. Mr. Everett said eighteen years. Mr. Liller asked the size of the property. Mr. Everett responded about 2 acres. Mr. Liller said Mr. Everett owned a business and he asked the name of the business. Mr. Everett said yes he does and it is called Matt's Mobile Truck and Trailer Repair. Mr. Liller asked how long he has had the business. Mr. Everett said over twenty years. Mr. Liller asked him to describe to the board what it is he does. Mr. Everett said he travels to sites where tractor trailers break down, such as on the highway or at a truck stop. Mr. Liller asked if he was contracted for this type of work or was he an independent

4.

contractor who solicits for work. Mr. Everett said people call him and he has some accounts with different towns. Mr. Liller said to clarify, all the work that is done is done off site and not at Mr. Everett's residence. Mr. Everett said everything is done locally at the location of the vehicle. Mr. Liller noted that Mr. Everett advertises on the computer. He asked if Mr. Everett advertised at all on the property. Mr. Everett said he does not advertise on the property. There is lettering on his truck. Mr. Liller asked if he received any business from advertisements on his property and if his business dealt with very large tractor trailers off site. He asked Mr. Everett how many employees there were. Mr. Everett said just himself.

Mr. Liller asked him to describe for the board all of the equipment he kept on his property. Mr. Everett said he keeps his service truck there. He keeps parts and tools in his truck. Mr. Liller asked what kind of tools he was referring to. Mr. Everett said they included a welder, air compressor, torches and hand tools. Mr. Liller asked if to his knowledge had anyone ever complained about the business. Mr. Everett said the complaints have been about cars and trailers that were on the property. He has a couple cars that he collects and he needs the storage for them. Right now the cars are sitting outside.

Mr. Liller said he has several code violations pending with the township, and he decided on his own to construct the pole barn so there was a place to put them away from the elements. It would be beneficial to Mr. Everett and beneficial to the town. Mr. Everett agreed. Mr. Liller asked if the proposal this evening was to construct a pole barn on the site. Mr. Everett said that was correct. Mr. Liller entered Exhibit A-1, a representative photograph of the proposed pole barn. Mr. Liller asked Mr. Everett if the photo was representative of the type of barn he proposed to build. Mr. Everett said yes it was. Mr. Liller asked if it would accommodate all of the debris and abandoned vehicles and parts that are currently on the property. Mr. Everett said there would be enough room for everything. Mr. Liller asked if that would bring him in compliance with all of the code violations that are pending. Mr. Everett said yes it would. Mr. Liller asked if the board agreed to grant the application would he agree to limit the vehicles and equipment he may be purchasing or replacing to only such vehicles and equipment that could be stored inside the pole barn, and have nothing stored outside the barn. He agreed to that term. Solicitor Frank asked for clarification, if it pertained to all vehicles or just unregistered vehicles. When he said he wouldn't get anything more, what exactly did that mean? Mr. Liller said at this point, because of the violations all vehicles must be registered or stored inside. Mr. Everett said there are two older cars that he works on that would be in the garage. Mr. Liller asked if he worked on them as a hobby. Mr. Liller asked if the garage would hold all the vehicles, specifically those that were not registered. Solicitor Frank asked if the proposal would be that there would be no unregistered vehicles, trailers, auto parts, machines and related personal property stored outside. Solicitor Frank said he was writing it down because it was important to be precise.

Mr. Liller asked Mr. Everett what type of noise would be generated by his use of the barn to work on cars. Mr. Everett said he would have to research what the ordinances are for hours that he would be allowed to work on cars and he would comply with them. Mr.

5.

Liller asked if he had been cited for noise violations in the past. Mr. Everett said he was given a verbal warning a few weeks earlier. Mr. Liller asked how often he would be working on cars in the barn. Mr. Everett said it was just a hobby and he would just be working on cars when he had a chance. He works long hours and doesn't have a lot of extra time. He said he would not be doing any commercial work. He might occasionally help out a friend and work on their car for them. He said he is also restoring a couple cars and he would be working on them in the garage. Mr. Liller said to clarify, this not for any financial gain, it is just something he likes to do. Mr. Everett concurred. He said nothing he would do there would make him any money. Mr. Liller asked if there was anything else Mr. Everett wanted the board to know as it evaluated the application. Mr. Everett said he just wanted to clean up his property and get his property in compliance. He said he wanted to be able to keep his vehicles on his property.

Member Bott said the application stated the applicant wanted to allow the continuation of his mechanic business. Solicitor Frank said the applicant's original proposal, as he understood it, was that he was asking to be permitted to continue a roadside business based from this location. He also wanted to build a pole barn. As detailed in the planner's letter, that raised a lot of potential issues. If the business does end up in one of the structures on the site, that would be a principal use all by itself. It would then require a use variance. The business he noted on the application is not a permitted use in the Agricultural Zone. The pole barn itself, regardless of whether it is a business use, exceeds the size permitted for an accessory structure in the zone. The maximum square footage allowed in this zone is 600 sq. ft. No matter what is proposed, the applicant would need to ask for a variance. His understanding from what Mr. Liller presented was that he wanted to amend the application to make it clear that he was not seeking to locate the ongoing roadside mechanic business in the pole barn. He wanted to ask just for the bulk variance to allow the pole barn as a residential accessory. It would not be for a commercial use. There were problems in the application. The business is based from this location, both in terms of business and in terms of physical base. Mr. Everett testified that he stores his truck on site and he stores his tools and parts on the truck. He also said he stores tools and supplies in the garage. The business is there and that is a whole different set of questions from the issue of the pole barn. In speaking with Mr. Liller prior to the hearing this evening his sense was that Mr. Everett established this use at this location when he moved here, but that was not prior to the township's zoning ordinance. It was not a pre-existing, non-conforming use. It was Mr. Frank's understanding from Mr. Liller that the applicant was withdrawing the request to have the truck repair business at the site. The problem is that it won't take away the issue for the applicant that he is doing that from this site. The ordinance restricts parking of commercial vehicles over 8,000 lbs.

Mr. Liller said he thought the issues were separate. Storing the vehicle at the site would be like an electrician or HVAC professional parking their vehicles at home. Solicitor Frank said he doesn't know what other residents are doing and it doesn't really matter. The law is the law. If this board is presented with adequate proofs that a variance is appropriate it could be granted, but it can't just ignore what was presented. The problem before the board is that the standards of the AGR Zone don't let the applicant do the

6.

business that he is already doing there. Solicitor Frank doesn't know how the applicant would be able to continue to make his living in the way that he does without a use variance from this board. The problem is even if the applicant can prove to the board that the business would remain outside of the pole barn structure in a way that could be tracked, there is still a problem. He isn't sure the board would want to hear just the bulk variance issue of the pole barn, or if Mr. Liller wanted them to hear just that. Mr. Liller said his client does not have an off-site location to store his work truck. He is not going to drive his personal vehicle to a commercial site to store it. Everything for the business is encompassed inside that vehicle, but he would get the variance if it is necessary. Solicitor Frank said the applicant testified he stores parts in his garage. Mr. Everett said they are parts he can run home and get instead of going to the parts store. He does 24-hour road service and needs the parts to be available to him. It is not a large amount of parts. Solicitor Frank said he isn't saying the applicant can't offer proofs to the board that could demonstrate that use might be compatible, but he wouldn't recommend just having a hearing for the bulk variance for the pole barn. There is still a use issue. The business has now been highlighted on the record. It needs to be dealt with. It is not necessary to forge ahead. He offered a recess for the applicant to consult with his attorney.

It was the Motion of Bott, seconded by Lutz to recess for ten minutes. All ayes.

At this time the board was back in session.

Mr. Liller said he spoke with his client and Solicitor Frank off the record. He would like to request an adjournment. He would like time to put both issues together in a whole package. He was confused with what the applicant was in violation of and what he wanted to request this evening. Additionally there are many members of the community in attendance and he would like to hear their concerns this evening to possibly correct them before the next meeting.

Chairman Zekas said that was a good idea but it should be done recognizing those in attendance have not heard a complete application. They could comment on what they have heard regarding a potential use and an accessory building. It would be worthwhile to get feedback.

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

Chairman Zekas said it was only a partial application but there was a potential for the applicant to come back for a use variance and variance for an accessory building.

Joseph Stella, 2032 Bustleton Road, said he had concerns about the pole barn and the continuation of the business. There is a lot of history, but too much to explain this evening.

7.

Solicitor Frank explained that the board doesn't know anything that isn't on the record. The board does not know about anything that is going on between the applicant and other parts of the municipal government. Mr. Stella said if the pole were considered on its own it would enhance the business. The property is not well maintained and he feels like he lives next to a junk yard. There was a code violation issued in 2012 to clean up the property. Some cleanup was done but not all of it. Another violation was filed in 2015. That was when the pole barn became an issue. There were records and photos in Code Officials Office. There is a lot of junk that comes home with his business. There is an off-site business, he goes out and repairs trucks and broken, worn parts come back. They are stockpiled on the property for months on end. In the last violation the Code Official stated he could not perform commercial work on the property unless he obtained the proper approvals. That order has been ignored. There are commercial trucks that come to the site and are repaired. Mr. Stella said he took pictures and when he takes pictures Mr. Everett calls the police and says Mr. Stella is harassing him. He said he has photos and will bring them. There are unregistered vehicles and vehicles covered up on the property. If the pole barn were built it would only allow more business to be done undercover. Mr. Stella said it was mentioned there are pole barns in the area. He agreed, there are many of them. Most of them are set back near the rear of the property line. If Mr. Everett put this pole barn where he wants to it would block Mr. Stella's view that he has been enjoying for over forty years. The existing pole barns in the area are made of materials that fit the area and the décor. Mr. Stella believes if the board decided to approve they should make him place it at the back of the property. He also said the business will only increase if the pole barn is approved.

Chairman Zekas suggested he submit the photos at the next hearing.

Carla McGurk, 2028 Bustleton Road, said she is opposed to the board allowing her neighbor to build a pole barn. What he was asking for is 20,000 cubic feet. The problem is that this is the first time anyone besides the neighbors have said anything about there being a business there. It has been a problem for years. The noise is her biggest issue, living right next to him. It is hard to prove that his work there is only a hobby. As a neighbor she can't prove if he is getting paid for it and she doesn't care. The noise is her main concern. There was no business there when she built her house in 1986 and it was a lovely neighborhood. Some years ago little by little it started to change. There are engines revving so loud that she can feel it in the walls of her house. Her house is off set, Mr. Everett's house is almost on Bustleton Road. Her house is 125' back. She is next to his back yard. When he brings in flatbed trucks with full trees and has them dumped on his property and spends the next three weeks cutting them up it is very noisy. Regarding vehicles, he has a Bobcat that he didn't mention that makes more noise than any lawnmower or car she has ever heard. There isn't a lot of noise during the day during the week when no one is home. Her family has had to go into the house because they could not sit on their deck and talk to each other because of the noise. It is not just a matter of what it looks like, it's the cars and trucks driving by her living room window. She has seen backhoes driving by too. If she complains they all run in the house and the noise stops. This has been going for eighteen years. She couldn't prove he was running a business, but he drags things home. There are engines there and there is the constant

8.

noise of metal grinding and pounding. It is usually after dark. He was cited for having stacked batteries. She is concerned with the pole barn because before it was in public view. He had batteries and oil drums stacked up and everyone could see it. She is concerned that now he will hide things that are leaching into the ground. His house has a three bay garage that should be enough space. If the pole barn is allowed it will allow him to hide what is going on. She and her neighbors all live in the country and use chain saws and wood splitters and all have fireplaces. None but him bring flatbed trucks full of trees. Pickup trucks come to his property and he uses the Bobcat to load them with wood and they drive off but there's no proof it is a business. Her neighbor five houses away used to call and ask if they went in yet because they could hear the noise at their house. It was a running joke but it isn't funny to her anymore. She has a beautiful house and property that she and her family built with their own hands and she is proud of it but her neighbor has ruined it for her and ruined her property value. She asked the application be denied and if the board can't stop the commercial use to please stop the expansion of the business. She believes the reason the applicant wants the pole barn is to expand his business.

Michael McGurk, 2028 Bustleton Road, said he built his house thirty years ago on that property because it was a nice quiet country setting. He has lost that. It hasn't been quiet. Day or night his family is subject to loud noise, no matter what the day, the noise goes on. There are days in the summer he has to close the window but it doesn't matter because it still penetrates into the house. A couple weeks ago on a Tuesday night it sounded like a war zone. The police were called, but the next day there was the same noise. Granting this variance will alter the essential character of the neighborhood and it would have a negative effect on the property values and pose a threat to the health and safety of the local residents from the noise and fumes. The scale of the project is extensive, 30'X50". It is bigger than some of the homes in the area and Mr. Everett already has a three car garage. The business is not desired by the neighborhood.

Fred Heydorn, 2018 Bustleton Road, said Mr. Everett said his son works with him in the business, then Mr. Everett said he was the only employee. He said he doesn't advertise for the business but he has a truck in his driveway with lettering on the side. The applicant currently has about twelve cords of firewood stacked up in his yard. He won't need that much; he is selling it. That is another business being run out of the site. Since there are so many batteries and oil tanks, he believes there should be a soil test done. There is a lot of junk piled up and there are mosquitoes breeding there.

Mr. Heydorn said the applicant and his family abuse the nearby Green Acres site and they go through the site and trespass on private property. They drive quads, motorcycles and souped up lawnmowers in the area. It makes a lot of noise. And they are also tearing up the Green Acres site. They have been cutting trees down there and dragging them to their property. He has called the police, and when the police come the neighbors run and hide. He believes the Code Enforcement Officer spoke to him about the firewood issue. He said there is a video of the Everett's riding their vehicles through the Green Acres property and he wondered if it should be presented to the board.

9.

Solicitor Frank said some of the issues Mr. Heydorn mentioned are not things this board would be able to take action on. Mr. Heydorn said it shows that the person has no respect for his neighbors.

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

Solicitor Frank said he thought the board should give the applicant a chance to respond to the comments made by the public. Mr. Liller conferred with his client. He declined to comment because the testimony seemed hostile and he did not think it would be beneficial for him. Mr. Liller said he would like to clarify a statement he made earlier. He mentioned earlier that his client's wife and son drive the family's two personal vehicles and the work truck. He didn't mean to imply that the applicant's son was working for his father. That is not the case.

Solicitor Frank confirmed Mr. Liller was saying that he wanted to withdraw his motion to amend down to just the accessory structure and was keeping open the application for a use variance as well as relief for the accessory residential structure. Mr. Liller concurred. Solicitor Frank asked if Mr. Liller would like to adjourn to the February meeting. Mr. Liller said he would like to adjourn to the March meeting to have time to consult with a professional.

Solicitor Frank said the applicant would be seeking a use variance as well as a bulk variance for the accessory. Unless that changes it can be done without further notice. For purposes of the public, this was the notice that this application will be heard on March 7, 2016 at 7:30pm. He suggested residents check with the municipality before the meeting to be sure it is indeed on the agenda.

It was the Motion of Bott, seconded by Lutz to adjourn the application to the March 7 meeting without requiring renotification. All ayes.

MINUTES

It was the Motion of Patel, seconded Lutz to approve as submitted the minutes from the regular meeting of October 5, 2015. All ayes.

CORRESPONDENCE

- A. Compliance review letter of Effisolar Energy from Engineer Rakesh Darji dated January 6, 2015.

Planner Fegley said the project is moving along but there are a couple of outstanding items.

It was the motion of Bott, seconded by Lutz to receive and file Correspondence A. All ayes.

10.

OTHER BUSINESS

Motion of Lutz, seconded by Buddenbaum to adjourn the meeting at 8:55 p.m. Motion unanimously approved by all members present.

Brett Buddenbaum, Secretary

/ak