

Florence, New Jersey 08518-2323
June 28, 2011

The regular meeting of the Florence Township Zoning Board of Adjustment was held on the above date at the Municipal Complex, 711 Broad Street, Florence, NJ. Chairman Fratinardo called the meeting to order followed by a salute to the flag.

Vice Chairman Zekas 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	Candida Taylor
Keith Crowell	B. Michael Zekas
John Fratinardo	Robert Adams
John Groze	William Bott

ABSENT: Ray Montgomery (excused)

ALSO PRESENT: Solicitor David Frank
Engineer Dan Guzzi
Planner George Stevenson (substitute for Bob Perry)

Vice Chairman Zekas will act as secretary in Mr. Montgomery's absence.

Chairman Fratinardo announced that Application ZB#2011-09 for Silvia and Ioan Secelean was being continued until the August 23, 2011 meeting at the request of the applicant. The applicant has agreed to extend the time for Board action.

Motion of Taylor, seconded by Buddenbaum to continue application ZB#2011-09 until August 23rd. Upon roll call the Board voted as follows:

YEAS: Buddenbaum, Crowell, Fratinardo, Groze, Taylor, Zekas, Adams
NOES: None
ABSENT: Montgomery

Solicitor Frank stated for the record that the Secelean application would not be heard tonight but will be heard at the August meeting and there will be no further notice mailed or published to this effect.

OLD BUSINESS

Chairman Fratinardo called for Application ZB#2011-05 for Kevin Griggs. Applicant is requesting a bulk variance for impervious surface coverage to permit construction of an

92.

8' x 12' storage shed on property located at 29 Third Avenue, Roebling, NJ. Block 137, Lot 10.

Kevin Griggs, 29 Third Avenue, Roebling, was sworn in by Solicitor Frank.

Mr. Griggs stated that he is applying for a bulk variance for impervious surface coverage to permit an 8' x 12' storage shed to be constructed in his rear yard. He stated that he is asking that the shed be placed 3' from the back property line and 3' from the side property line. He stated that the lot is small and locating the shed closer to the property lines will allow him to still use his back yard.

Mr. Griggs submitted Exhibit A1, which is a series of 2 photographs showing similarly located sheds on neighboring properties.

Vice Chairman Zekas asked if there were any other existing structures in Mr. Griggs yard. Mr. Griggs answered that there were not and testified that the majority of the homes in Roebling have sheds. He also stated that if the shed were put in a conforming location he would not be able to fully utilize his back yard.

Responding to a question from Member Taylor, Mr. Griggs stated that there are currently no drainage issues on his property.

Engineer Guzzi stated that his May 5th letter outlines a number of existing non-conforming conditions, which is very common in the RC high Density Residential District in Roebling. The new variance that would result from the construction of this shed would be an increase in impervious coverage from 66% to 70%, minimum side yard for an accessory building 3' proposed where 5' required, and minimum rear yard 3' proposed where 10' is required from a municipal alley.

Mr. Griggs testified that the shed would be approximately 10' tall.

Motion of Taylor, seconded by Zekas to open the hearing to public comment. Motion unanimously approved by all members present.

Seeing no one wishing to comment, motion was made by Zekas, seconded by Crowell to close the public hearing. Motion unanimously approved by all members present.

Motion of Taylor, seconded by Crowell to approve application ZB#2011-05.

Engineer Guzzi stated for the record that Mr. Griggs did get the Certificate of Appropriateness from the Historic Preservation Commission.

Upon roll call the Board voted as follows:

YEAS: Buddenbaum, Crowell, Fratinardo, Groze, Taylor, Zekas, Adams
NOES: None

93.

ABSENT: Montgomery

Vice Chairman Zekas read the time limit for appeal statement to the applicant.

NEW BUSINESS

Chairman Fratinardo called for Application ZB#2011-10 for Derek and Clare Stewart. Applicant is requesting a bulk variance for impervious lot coverage to permit installation of a 24' round aboveground swimming pool on property located at 308 West Second Street, Florence. Block 37, Lot 4.

Derek and Clare Stewart were sworn in by Solicitor Frank.

Mrs. Stewart stated that they were requesting a bulk variance for impervious lot coverage to permit construction of an above ground pool in their back yard. She stated that they would like to locate the pool 6' from the fence and said that West Second Street has no alley. Everyone's property backs up into what was the alley so the 10' setback from the alley doesn't really apply because there is no alley.

Engineer Guzzi stated that he did not believe that this alley had ever been vacated so this is technically still an unimproved paper alley. He said that as Mrs. Stewart had stated it seems that all the property owners have all extended their properties back and located their fences in the middle of the alley.

Mr. Stewart stated that they want to locate the pool 6' from the original fence. Mrs. Stewart said that this would actually be 10'. Vice Chairman Zekas asked if the 6' encroached into the alley. The Stewarts answered that it would not. Engineer Guzzi stated that it should be 6' from the property line, not the fence in the middle of the alley.

Vice Chairman Zekas asked if there were any structures close to the fence on the lot to the right hand side, looking at the front of the house, where there is the 6' side yard setback. Mrs. Stewart stated that there were not.

Chairman Fratinardo asked if there would be any grading done for the pool. Mrs. Stewart said that they would be leveling the ground but this would not result in any runoff onto another property. She stated that there are no current drainage problems.

Engineer Guzzi asked if there was a shed in the back yard that was not shown on the survey? Mr. Stewart stated that there was a plastic shed sitting on dirt at the back corner of the property. Engineer Guzzi stated that he had seen this in the aerial photograph of the property and included this in the calculations for the lot coverage.

Engineer Guzzi said that this application was for a variance request for impervious coverage increasing from 31.2% to 38.3% where 25% is permitted and a rear yard setback of 6' where 10' is required.

94.

Member Taylor asked if there would be any decking associated with the pool. Mrs. Stewart said no and added that the only access would be by a ladder.

There was additional discussion as to the actual location of the pool. Mrs. Stewart stated that they would put the pool 10' from the fence. Engineer Guzzi stated that this would be 2' from the property line.

Vice Chairman Zekas stated that he was not happy with using the fence as the measuring line.

Mrs. Stewart submitted Exhibit A1, a photograph of the chain link fence at the rear of her property. Engineer Guzzi stated that it appears that this fence is located in the alley. He stated that the approval would be for 2' off the property line so the Stewarts need to find out exactly where the property line is located.

Mrs. Stewart stated that she would like to amend the application to reflect a 2' setback from the rear property line.

Motion of Zekas, seconded by Groze to approve Application ZB#2011-10. Upon roll call the Board voted as follows:

YEAS: Buddenbaum, Crowell, Fratinardo, Groze, Taylor, Zekas, Adams
NOES: None
ABSENT: Montgomery

Vice Chairman Zekas read the time limit for appeal statement to the applicants.

Chairman Fratinardo called for Application ZB#2011-11 for Charles and Mary Bauer. Applicant is requesting a bulk variance for impervious surface coverage to permit construction of an in-ground swimming pool on property located at 517 Wilbur Henry Drive, Florence. Block 82.01, Lots 7, 10 & 11.

Charles and Mary Bauer were sworn in by Solicitor Frank.

Mr. Bauer stated that they were here to seek relief on the impervious coverage requirement. If the application is approved the pool will meet all the setback requirements.

Mr. Bauer submitted 7 photographs of his property. Exhibit A1 shows the slope of the front yard where any water runoff would go. Exhibit A2 shows the house to the right of the Bauer property. Exhibit A3 shows the house to the left of the Bauer property. Both of these houses sit higher than the Bauer house. Exhibit A4 shows the view looking from the front of the Bauer property to the rear of the property and showing that the house located on East Sixth Street that sits 4' higher than the Bauer house. Exhibit A6 shows the slope of the Bauer driveway. Exhibit A7 shows the dry pond or detention basin that is across the street from the Bauer property.

95.

Mr. Bauer stated that there are no drainage problems currently on his property.

Engineer Guzzi stated that the impervious coverage would increase from 45% to 51.6% where 25% is permitted. Mr. Bauer stated that the fence would not extend any further than the front of the house.

Motion of Zekas, seconded by Groze to open the hearing to public comment. Motion unanimously approved by all members present. Seeing no one wishing to comment motion was made by Taylor, seconded by Crowell to close the public hearing. Motion unanimously approved by all members present.

Motion of Zekas, seconded by Adams to approve Application ZB#2011-11.

Upon roll call the Board voted as follows:

YEAS: Buddenbaum, Crowell, Fratinardo, Groze, Taylor, Zekas, Adams
NOES: None
ABSENT: Montgomery

Mr. Bauer stated that he would waive the reading of the time for appeal statement.

The Board took a 5 minute break. The Board returned to the regular order of business.

Chairman Fratinardo stated that the applicant for LB Solar, Mark Dimon wanted to ask a question regarding the resolution of approval for his application. He stated that rather than having Mr. Dimon stay through on the next application, he could ask his question now.

Mark Dimon, 2076 Old York Road, Florence Township, inquired as to the status of Resolution ZB-2011-12. He stated that this resolution was supposed to be approved at last months (May's) meeting. It is now the June meeting and the resolution is not ready for approval for this month either. The application is for solar and the delay is unacceptable.

Solicitor Frank stated that he was ready to prepare the resolution and in checking on the escrow balance was informed by the Board Clerk that there was no escrow money available, so he did not prepare the resolution. Mr. Dimon stated that he submitted a check to the Board Clerk within days of being notified of the escrow deficiency. This was at least a week before the meeting and there should have been sufficient time to complete the resolution. Mr. Dimon again asked for an explanation as to why the resolution was not done. Solicitor Frank stated that he didn't get the resolution done in time for the meeting.

Member Taylor stated that the Board understands that Mr. Dimon is upset and that this delay is costing him money. She asked if there was legally any way that the Board could expedite the resolution for Mr. Dimon. Solicitor Frank stated that the only thing the

Board could do, would be to hold a special meeting to adopt this resolution. It would probably take a few weeks to arrange the meeting and would gain Mr. Dimon 2 weeks, however there is still a tremendous amount of process involved to get final compliance plans that are signed by the Township Engineer, the Board Chair and Secretary and the County Engineers office which would allow Mr. Dimon to begin construction of his project prior to the Board's next meeting.

Mr. Dimon stated that his main concern is having the resolution advertised so that the appeal clock could start; otherwise he would be building at his own risk.

Vice Chairman Zekas apologized to Mr. Dimon but stated that the meeting must move on and said that the Board would see if there was any way to get a resolution before the next meeting and if it is possible to do so Mr. Dimon would be notified.

Vice Chairman Zekas moved to close this portion of the public hearing and continue with the agenda items. Member Adams seconded the motion. Motion unanimously approved by all members present.

Chairman Fratinardo called for Application ZB#2011-12 for Nexus Solar, LLC. Applicant is requesting Use Variance, Preliminary and Final Major Site plan approval to permit the installation of a ground mounted solar panel array on property located at 2035 Columbus Road, Florence Township, NJ. Block 170, Lot 6.01.

Attorney Dino Spadaccini stated that he was appearing on behalf of the applicant, Nexus Solar, LLC requesting Preliminary and Final Major Site Plan approval, Use Variance relief, waiver relief and possibly bulk variances. The owner of the property is Burlington Assembly of God. This is a New Jersey, not for profit corporation, also known as the Fountain of Life Center. The property is an approximately 106 acre parcel which is developed with an existing principal use known as the Fountain of Life Center which consists of a house of worship, school, gymnasium (previously approved under Planning Board Resolution No. PB-2004-17). The site also contains recreational fields, agricultural uses, parking areas and accessory uses such as maintenance buildings and radio towers.

Attorney Spadaccini stated that the applicant was proposing to utilize about 5.5 acres of the site for an accessory use consisting of ground mounted renewable energy solar array, basically a solar farm.

Attorney Spadaccini asked to have all his witnesses sworn in. Solicitor Frank swore in Doug Szabo with Pennoni Associates, Paul Ricci, licensed professional planner with Ricci Planning, William Harris with Nexus Solar and Joe Kline with Nexus Solar.

Chairman Fratinardo asked Engineer Guzzi to address the completeness items.

Engineer Guzzi referred the Board to his June 16, 2011 review letter, page 2, Item A states that a survey of the property by a licensed new Jersey Land Surveyor was not

received. A variance would be required for this. The applicant did provide an existing conditions plan and several plans that show the existing improvements. The only missing piece is the boundary information and the building tie lines so that setbacks could be verified. Engineer Guzzi stated that there was enough information provided to allow the Board to move forward with the application, but this must be resolved as a condition of approval. Attorney Spadaccini stated that the applicant would provide the required information.

Item B is the requirement for the Environmental Impact Statement. The applicant has requested a waiver. Engineer Guzzi stated that it appears that the area to be utilized for the solar arrays is already an open area with limiting clearing and the existing radio towers. He stated that he would support the request for this waiver.

Item C again has to do with the setbacks and is impacted by not having a survey provided. Engineer Guzzi stated that he would like to see this information provided but the Board could move forward based on the information provided.

Item D is the requirement for the location of all existing utilities. The applicant did not request a waiver but they do need one for this. Engineer Guzzi stated that the main concern is for any underground lines that would be in the area of the solar array. He stated that he would like to see this added to the plans, but this could be done as a condition of approval.

Item E is a waiver request for existing and proposed signs, lighting standards, utility poles, trees of 6" caliper and larger. Engineer Guzzi stated that based on what has been provided the area is far away from everything else that was previously approved and he would support this request.

Item F is the requirement for a grading plan. The applicant indicated that this was not applicable but the plan does have a note on it regarding fine grading that may be required so a grading plan should be submitted.

Member Taylor stated that Engineer Guzzi stated that there would be minimum clearing but in looking at the plans she thought that was quite a bit of wooded area that was being cleared for this. Engineer Guzzi asked for testimony on this.

Attorney Spadaccini stated that in regards to the conditions of approval that have been called out on completeness items, the applicant will comply.

He then called Doug Szabo to provide testimony on clearing. Mr. Szabo stated that he was a licensed professional engineer affiliated with Pennoni Associates. He stated that he had been a licensed engineer in the state of New Jersey for 15 years and has regularly appeared before Boards as an expert in engineering. The Board accepted Mr. Szabo as an expert.

Mr. Szabo submitted Exhibit A1 a color exhibit of the overall Fountain of Life property and Exhibit A2 that is a blow-up of the project area on the site. He said that the solar panel array is adjacent to Burlington Columbus Road and there is a stand of evergreen trees along Burlington Columbus Road. The plan is to remove approximately half of these trees. The reason for this is that the trees would create shading on the front side of the solar panels. A small portion of deciduous trees to the east of the solar array would also be removed. The buffer is currently 120' wide and would be reduced to 60' wide. This would be less than a quarter acre of tree clearing. The remaining portion of the property is currently maintained turf grass. Once the solar array field was installed it would be seeded and maintained as turf grass post construction.

Member Taylor mentioned that she was concerned with wildlife in the area being displaced by the clearing of these trees and the installation of the solar panels. She asked if all those panels were necessary for the electrical power supply for the complex? Mr. Szabo stated that the yearly energy demand of the Fountain of Life Center is approximately 1.26 megawatt hours per year. This is for the sanctuary, the school, the gymnasium and the external lighting. The proposed system will generate approximately 1.15 megawatt hours per year which is just under the demand for the entire site for a year.

Mr. Szabo stated that the average home uses about 18,000 kilowatt hours per year so this would power about 64 homes. This demand for the site, which would normally be drawn from the grid, will be taken off line and will utilize sun energy (clean energy) for this property.

Member Bott asked if glare from the panels would impact drivers on Burlington Columbus Road? Mr. Szabo said that the panel is light absorbing so there is no reflection per se. There is the potential for "glint" for a short period of time in the morning or late afternoon hours. This is dependent on the sun angle, time of day and your position in regard to the panel itself. Mr. Szabo stated that it is unlikely that drivers would be affected by the glint.

Engineer Guzzi stated that the applicant had requested a waiver from identifying trees 6" or larger on the entire site. Attorney Spadaccini asked Mr. Szabo about the types of trees that would be cleared. Mr. Szabo stated that the trees to be cleared are 35' to 40' tall evergreen trees that were planted by the church. Mr. Szabo stated that a 60' evergreen buffer will still remain and additional trees will be added to an area that has sparse trees.

Member Taylor remarked that a solar farm in Burlington has no buffer at all and does not look very nice. Mr. Szabo stated that due to the remaining tree buffer drivers would not be able to clearly see the panels from the road.

Motion of Zekas, seconded by Crowell to grant waivers and deem the application complete with the conditions as discussed. Upon roll call the Board voted as follows:

YEAS: Buddenbaum, Crowell, Fratinardo, Groze, Taylor, Zekas, Adams
 NOES: None

ABSENT: Montgomery

Mr. Szabo stated that this site is 106 acre parcel comprised of Lot 6.01, Block 170 at the intersection of Burlington Columbus Road and Old York Road. Existing on site is an 86,000 sq. ft. sanctuary and school, 126,000 sq. ft. recreation facility and approximately 730 parking spaces. The proposed project is to the west of that in an area where there are 3 aluminum barn structures, one existing single family dwelling, bus depot and 4 radio towers with an equipment building. The site is comprised of some deciduous trees, evergreens and maintained turf grass.

Chairman Fratinardo asked if any of these structures were non-conforming? Mr. Szabo stated that there is an existing non-conforming front yard setback for the single family dwelling – 64' where 100' is required.

Mr. Szabo, referring to Exhibit A2, stated that the proposal is for a 1 megawatt ground mounted solar array system, which will be on the southeasterly portion of the property near the radio towers, adjacent to Burlington Columbus Road. This project will generate approximately 1.15 megawatt hours per year of electricity. The current demand for the existing site is 1.26 megawatt hours per year. This is a net meter project, which means that they are not selling power to the grid. The entity that operates the grid is PSE&G and the applicant has an interconnection application into them. The way this works is that any power they don't use in an off peak situation will go back to the grid. This would be metered as such (the meter would run backwards) and power they do use will be pulled from the grid and the church will be charged for that. At the end of the month PSE&G will subtract the 2 numbers and the church will either receive a credit or an invoice.

The array will consist of 4,395 modules. This project will require that a portion of the existing trees and the existing stone parking area be removed. These areas will be re-vegetated with a native grass mix.

Mr. Szabo submitted Exhibit A3, which shows similar, ground mounted solar projects installed on grass fields in different parts of the United States and Europe. This illustrates the successful growth of vegetation under this similar type of panel system. Exhibit A4 is a ballast mounted system that was just completed in Gloucester County which utilizes the same grass mixture that is proposed for this project.

Mr. Szabo stated that Engineer Guzzi had mentioned the definition of fine grading; he stated that the reason that was on the plan is that in certain instances with the topography of the site they want to make sure that they do have relatively flat area for the most part. There will be very minimal grading, if any for this project, as this will a foundation-mounted system, which they basically push in, similar to a fence post. Mr. Szabo submitted Exhibit A5 a cross section of the actual racking system with the panel mounted on top. The design plans show that there is some fine grading, they want to knock down any high points if they do exist. In addition, when they remove some of the stone parking

area, topsoil and seed would be added to this so that everything would look uniform at the end of construction.

Engineer Guzzi stated that one of his concerns is that the plans say that the contractor should take care of things. He said that this becomes difficult in the field later on when you are trying to get the contractor to comply with the approval. He recommended that all the areas that are going to be disturbed and all the grading that is going to be done be addressed on the plans and not just be handled with a note for the contractor to take care of it. Mr. Szabo stated that they would agree to this.

Chairman Fratinardo stated that there is a letter from the Fire Official about not doing any open burning during the clearing of the site. He asked if the applicant had plans on open burning. Mr. Szabo stated that they had received the letter from the Fire Official and they will comply with it. There are no plans for open burning.

Mr. Szabo stated that there would be a perimeter fence around the project for security, which will also encompass 2 inverter pads housed with inverters. Each inverter will connect by underground conduit to the sanctuary or the gymnasium. There is a loading area to the north of the sanctuary, which also has a transformer. A switchgear will be placed next to the transformer, tie through the electrical system of the sanctuary and school, and then net meter back to the PSE&G transformer. Similarly from the northerly inverter pad they will go north toward the gymnasium and have a disconnect switch at the exterior of the gymnasium and come out to a transformer just outside of the gymnasium. Mr. Szabo stated that the perimeter fence would be a 6' high vinyl coated chain link fence, either black or dark green.

The whole systems efficiency will be remotely monitored from a computer. Inspections are typically done annually unless the remote monitoring identifies an issue. This use will not generate any traffic impact. There is no stormwater impact foreseen. There will be no water or sewer demand for this use. There will be a de minimus environmental impact from the tree clearing since the majority of the site will be in an area that is already cleared. In addition there is no impact to the existing freshwater wetlands or wetlands buffer. A Letter of Interpretation that was issued by Department of Environmental Protection is still in effect.

Responding to a question from the Board Mr. Szabo stated that the inverters do generate fan noise between 58 and 65 decibels, which is less than a vacuum cleaner. The state standard monitors noise level at the property line. The closest property line to the site is nearly 600' away, so the noise level at the property line from this use will be zero. Mr. Szabo stated that when the sun goes down the whole system shuts down.

The inspection would be done by a small pick up truck or an ATV. There are 13.5' between the panels. This distance is to avoid shading of the next panel behind it.

Vice Chairman Zekas asked about the layout of the panels. Mr. Szabo stated that the radio towers each have 3 supporting cables. The layout of the panel north of the first radio tower is to avoid interference with those cables.

Member Crowell asked if there were any existing utilities in the subject area? Mr. Szabo said that they are going to do the utility mark-out; they just didn't have time to do it before this hearing. He stated that they had been told by the church, who operates the radio towers that there are some existing underground lines that run from the towers to the building that distributes the communication signal. These will be identified in the field, and plot them on the plan to be sure that there is no conflict. He stated that to his knowledge there are no other utilities in the area.

Attorney Spadaccini called Paul Ricci to testify. Mr. Ricci stated that has been a licensed professional planner in the state of New Jersey since 2000. Mr. Ricci stated that he has appeared before many Boards. Mr. Ricci was accepted as an expert in the field of professional planning.

Mr. Ricci submitted Exhibit A6, consisting of an aerial and a series of 4 photos. He stated that the aerial was taken in 2010. He stated that the site was depicted in yellow. The black dashed line represents the northern portion of the site that is not depicted in the aerial. The white delineated area shows the proposed solar array location. The nearest residential property is to the south of the solar array area, behind the existing vegetation. The plan does propose to remove some of that vegetation but a buffer of 60' in depth will remain in that area, which will screen the view of the solar panels from Columbus Road.

Mr. Ricci stated that on page 2 of Exhibit A6 the top photograph shows the existing sanctuary. The bottom photograph shows the existing telecommunication towers that exist at the location. These are thin towers and they don't create very much of a visual impact. He pointed out that you could see in the rear of the photo the existing mature woodlands on the site. On page 3 the top photo shows the size and scale of the trees and while some are going to be removed, this is a dense area adjacent to Columbus Road. The final photo is taken from the next nearest residential subdivision, Fountain Boulevard, looking in the northeasterly direction towards the proposed solar array. You can see from a street view this mature vegetation hides the view of all the existing accessory buildings from this surrounding area. So the site for the placement of a photovoltaic facility is ideally suited based upon the existing conditions.

Mr. Ricci stated that the applicant is seeking a D1 Use variance to permit an accessory use and a bulk variance to permit an accessory use that is not located to the rear of the principal building. He stated that the AGR Agricultural District where this site is located, permits a range of single family and agricultural uses on lots that are 3 acres in area and greater. Conditionally, it does permit utility structures and facilities needed to provide direct service of gas, electricity, telephone, water, and sewage. While this proposal doesn't meet that definition of an accessory use the use is similar to a range of permitted uses that are allowed in this district.

Mr. Ricci stated that they do require a D1 Use Variance and as noted in the Board Planner's memo this is an inherently beneficial use, a use that promotes the general welfare and it is specifically identified in the Municipal Land Use Law (MLUL) as an inherently beneficial use. The Board is aware that for Use Variances you are commonly required to meet the positive and negative criteria to show that the use promotes the public good. All inherently beneficial uses meet the positive criteria in that they promote the public good. The second part of the proof for a Use Variance is that it has to be proven that the use will not impair the intent in the zone plan and will not create a detriment to the public good. Typically for a Use Variance application it is called the Medici enhanced burden of proof, essentially reconciling the omission of a use from the Municipal Master Plan, but for inherently beneficial uses the applicant is not required to meet that burden of proof.

Mr. Ricci stated that the Florence Township Master Plan does address photovoltaic facilities and he stated that he would provide some information of that. He stated that the Board will find that this application is consistent with the Municipal Master Plan.

Mr. Ricci said that photovoltaic and other clean energy facilities are needed as a means of creating energy without the creation of greenhouse gases that fuel climate change. The sun's rays, the fuel source for photovoltaic energy, are everlasting. This is a clean and renewable source of energy. From a national security point of view energy produced at home doesn't require distribution from overseas and does not create a threat to individuals that live nearby as nuclear energy does.

Mr. Ricci said that the State created an Energy Master Plan in 2008 and this proposal meets several of the goals of the State Energy Master Plan. Goal No. 1 is to maximize the State's energy conservation and energy efficiency to achieve reduction in energy consumption of at least 20% by 2020 and to reduce peak demand for electricity by 5000 megawatts by 2020. In the summer months where there are blackouts due to air conditioners running, uses like this help provide energy and supports the grid. Another goal strives to surpass the current RPS (Renewable Portfolio Standard Goals) with the goal of achieving 30% of the State's electricity needs from renewable sources by 2020. A third goal is to invest in innovative clean energy technologies in businesses to stimulate the industries growth in New Jersey.

Mr. Ricci stated that the MLUL in point "N" indicates as a specific goal of the act to encourage the creation of renewable energy sources. So it is clear what the rationale is and why the State finds these uses to be in the public interest. There is a long history of case law regarding the negative criteria for inherently beneficial uses.

The Board should use the Sica 4 part balancing test. This test is meant to weigh the positives of an application versus the detriments and when the positive outweigh the negative the Board should vote in favor of an application. The first test is what is the public interest at stake? Mr. Ricci said that he mentioned this as indicated by the implementation of the State Master Plan and the fact that this is an inherently beneficial use. The second part asks what are the potential negative impacts of this application.

The Board has heard extensive testimony from the applicant's engineer stating that this is essentially a passive use. There will be negligible noise at the property line, there will be no impact to traffic, no demand on public water, sewer or septic, does not increase demands of municipal services, environmentally there is a small area of clearing proposed but otherwise this project meets all existing environmental regulations in terms of satisfying wetlands setbacks and transition area. He stated that from a Land Use perspective, the site is appropriately located in an area where an existing field exists. The area is well buffered. Moving the facility any further to the rear of the site would just result in additional clearing of mature vegetation and woodlands. The site is screened so there is no negative visual impact. This area is not currently farmed so there would be no loss of tillable farmland as a result of this application. So all in all there are no negatives as a result of this application.

Mr. Ricci stated that the third part of the test asks if there are any mitigation techniques that can be used to reduce any of the negative impacts. He stated that from a planning standpoint he doesn't find that any are necessary, but if the Board should feel that there are conditions that need to be imposed as part of the approval that is something that the applicant would consider.

Mr. Ricci stated that the fourth part of the test asks to have the benefits balanced against any detriments. He stated that it is quite clear that the benefits in the need to provide renewable energy far outweigh any detriments associated with the application. He stated that in his opinion this application clearly meets the Sica 4 part balancing test.

Mr. Ricci stated that he reviewed Florence Township's most recent Master Plan and the 2007 Master Plan Re-Examination Report. On page 15 of the Re-Examination Report it says, "In order to streamline the development of small scale alternative energy generating facilities the following objective should be added to the principles assumptions and objective section of the Land Use Plan Element of the Master Plan" it continues "wind and solar energy are abundant renewable and non-polluting energy resources. When converted to electricity, wind and solar energy reduce our dependence on non-renewable energy resources and reduce air and water pollution that results from conventional sources. The escalating rise in energy costs has spurred increased demand for small scale renewable energy generation devices especially solar and wind. These uses should be encouraged and permitted subject to bulk and conditional regulations in all appropriate zoning districts within Florence Township." Mr. Ricci stated that on page 17 it indicates for solar energy structures and says "solar energy structures which generate electricity or store heat for use on site should be a permitted use in all zoning districts within Florence Township subject to the following recommended standards and restrictions." Mr. Ricci stated that there is a standard listed for ground mounted solar that states "ground mounted solar panels shall be located in the side or rear yard only and shall not be constructed within the required setback distances." He said that he noticed that this zone has a front yard setback requirement of 50' and has a specific setback for accessory structures for 100'. The proposed setback for this application is 198' so it is clearly consistent with the setback principles for this district. It continues to say the "ground mounted solar panels shall not exceed 8' in height above the ground." The applicant's engineer testified that

these panels are less than 7' in height. It continues to say that "ground mounted solar panels shall to the extent possible be screened from adjacent properties by fencing or plantings. Adequate screening is proposed.

Member Crowell asked if there was any way to accomplish this project without removing the trees. Could the location of the panels be re-oriented? Mr. Ricci asked Mr. Szabo to address this. Mr. Szabo stated that the stand of deciduous trees to the north casts a shadow well past the radio towers so to move the panels north would force the removal of trees elsewhere on the site. They tried to minimize impact by locating the panels in an area that would give the highest yield so they are not placing panels far apart and also not have to take down the trees that buffer the system to the existing use. They wanted to maintain that buffer as well as maintain the buffer along Florence Columbus Road that is going from 120' deciduous tree buffer to 60' buffer. Generally the requirement is a 50' buffer between residential and commercial uses.

Mr. Ricci said that regarding the remaining bulk variance, first he wanted to indicate that when you have a "D" variance application there is case law that indicates that bulk variances are traditionally subsumed under the "D" variance. You have a use that is not permitted in the zone so standards related to that use don't necessarily apply and the Board should evaluate that application as a whole when making a determination on a bulk variance. It should be noted that this property has multiple uses on it and there is a principal structure that is located at a setback of close to 200'; approximately 4 times the distance of the required minimum setback of 50'. The plan does comply with the stated accessory structure setback for the zone of 100'. The proposed setback is 198'.

Mr. Ricci stated that when the previous single family home (the existing non-conforming accessory condition) was a principal structure the required setback was 50'. When this became an accessory structure it became a non-conforming condition. So the panels continue to be consistent with the front line of the former principal building in that area. He said in his opinion it is better to locate the panels in their current location. While this is closer than the back of the rear yard as required by ordinance, but is close to twice the stated accessory building setback. This eliminates the need to push panels to the rear and essentially reduces the need for additional removal of trees, encroachment into wetlands and wetland transition areas. He said that he feels that this is a better zoning alternative for this specific piece of property.

Mr. Ricci stated that in summary this application meets the burden of proof for use and bulk variance relief.

Solicitor Frank stated that he does agree with Mr. Ricci that the case law supports the idea that when the Board is looking at a Use Variance, the bulk standards of the zone really become something that the Board needs to look at carefully and arrive at an appropriate design for the site regardless of what the particular standards may be.

Attorney Spadaccini stated that this concludes their presentation and asked if the Board had any questions.

Engineer Guzzi referred the Board to his June 16, 2011 report starting on page 3, site plan review. Mr. Szabo stated that they would comply with items 1 and 2. They will provide Item 3, the Letter of Interpretation. Item 4 Mr. Szabo agreed that the location of the utilities would be added to the plan. Item 5 areas to be graded will be added to the plan. Item 6 there is soil and debris stock piled on the site. Mr. Szabo stated that the soil is used for the recreation field. A note will be added to clarify this. Item 7 consistent with Item 5 grading will be added in this area also.

Engineer Guzzi stated that Item 8 refers to the requirement for sidewalk along the road frontage of the site, both Old York Road frontage and Burlington Columbus Road frontage. Sidewalk must be provided or a contribution be made to the Township's Sidewalk fund in lieu of installing the sidewalk.

Attorney Spadaccini stated they would like to bond for this improvement and be given the opportunity to go to Township Council to seek a waiver from this requirement. Engineer Guzzi stated that the applicant has to decide whether they are going to install the sidewalk or make the contribution. This Board has no authority to waive the requirement. Attorney Spadaccini stated that the applicant understands that they will have to do one of those 2 things unless they get relief from the Council. In the interim while they take the step to go to Township Council is there any way that they can bond for one of those 2 items or say that they will comply with one of those 2 items pending seeking relief with Township Council.

Solicitor Frank said let's assume that the applicant asks this evening for the waiver, understanding that under the ordinance the condition of that waiver is that you are required to make the contribution to the sidewalk fund. That contribution to the sidewalk fund doesn't have to be made until the final site plan drawings are signed and released and you are scheduling your pre-construction meeting. There would be several months until that point is reached.

Attorney Spadaccini stated that they understand that if they can't get relief from Council they are either putting the sidewalks in or making the contribution. They simply want the opportunity to go to Council and if they can address this with a note that would be fine. Mr. Szabo stated that they could revise the plan to show potential sidewalk.

Solicitor Frank stated that the Board could approve this in the alternative so that the applicant does not have to come back.

Mr. Szabo stated that for Item 9 the additional dimensions would be added. Item 10 regarding the maintenance drives. Mr. Szabo stated that there are 2 gates along the existing stone access road to the east. The inverter pads are located on the west of the system. Generally the inverters have a 20 year useful life, which will require potential monitoring and maybe minor maintenance. If there is a major upgrade at year 20 they could take out portions of the existing chain link fence to accomplish that. Engineer

Guzzi asked if there was a maintenance drive. Mr. Szabo stated that there was no dedicated maintenance drive because vehicle access is not required.

Mr. Szabo stated that they would comply with Items 11, 12 and 13. Item 14 testimony has been given regarding the need to remove the trees. Item 15 refers to the discrepancy between project area and the area of disturbance. Mr. Szabo stated that the footprint of the system is 5.50 acres but when you add in the area to provide conduit to the sanctuary and the gymnasium this bumps it up to 7.68 acres. Engineer Guzzi stated that the applicant is also required to get approvals from Florence Township Fire District, Burlington County Planning Board, Burlington County Soil Conservation District and New Jersey Department of Environmental Protection.

Planner Stevenson referred the Board to the Remington and Vernick review letter dated June 17, 2011. He stated that the testimony touched on every point set forth in the review letter and the planning testimony given by Mr. Ricci demonstrated that various tests for the grant of the relief.

Member Adams asked if there would be access for emergency vehicles. Mr. Szabo stated that there are gates for access and there is access around the perimeter of the fenced in area. Member Adams asked about the area between the panels. Mr. Szabo stated that between the panels is about 13' wide so a small pick up truck could go between there. He stated that he didn't see the requirement for an ambulance to go between the panels. He stated that it is not that far to bring a person out.

Mr. Szabo stated that training would be provided to first responders on how to turn off the system if necessary.

Member Bott asked what the objection to the requirement for sidewalk was. William Harris, representing Nexus Solar stated that there are 2 issues, one from his perspective and a second one from the property owner's perspective. He stated that the requirement for sidewalk was outside of their scope of work with their client. If the requirement were only across the frontage of the lot where the solar field was proposed they would be happy to do that as it would only be a couple hundred feet, but because the frontage of this site is so large the cost would be upwards of \$100,000 for sidewalk installation. Since this is outside of the scope of their contract with the property owners, that requirement is really falling on the property owners shoulders. He said that he is not sure that it is a dollar issue to them, but he is sure after talking with some of the site managers that it is a liability issue. The church doesn't want the future maintenance for liability and snow removal, trips and falls, etc.

Motion of Taylor, seconded by Crowell to open the hearing to public comment. Motion unanimously approved by all members present.

Seeing no one wishing to comment motion was made by Crowell and seconded by Taylor to close the public comment. Motion unanimously approved by all members present.

Solicitor Frank stated that this application was for a Use Variance for an accessory use not permitted in the zone namely a net metered solar array that will provide power for the existing school, church, gymnasium, etc. on the site. The approval would be subject to the following conditions: boundary and tie lines should be added to the existing and proposed plans, underground utilities will be shown within the project area, detail will be submitted on areas of disturbance and grading, comply with all the plan details and comments as testified, the applicant will pursue both option for sidewalks and they will show the potential sidewalk on the plan with the understanding that they may decide to make a cash contribution or seek relief for the same from Township Council, training would be provided to first responders on how to operate safely within the field area and access to disconnect, plus the usual conditions regarding escrows, outside approvals etc.

Motion of Zekas, seconded by Adams to approve Application ZB#2011-12 with the conditions as stated.

Upon roll call the Board voted as follows:

YEAS: Buddenbaum, Crowell, Fratinardo, Groze, Taylor, Zekas, Adams
NOES: None
ABSENT: Montgomery

MINUTES

Motion of Taylor, seconded by Bott to approve the Minutes from the meeting of May 24, 2011 as submitted. Motion unanimously approved by all members present.

RESOLUTIONS

Resolution ZB-2011-15
Continuing the application of Kevin Griggs until the June 28, 2011 meeting.

Motion of Groze, seconded by Taylor to approve Resolution ZB-2011-15. Upon roll call the Board voted as follows:

YEAS: Taylor, Crowell, Adams, Buddenbaum, Fratinardo
NOES: None
ABSENT: Montgomery

Resolution ZB-2011-16
Granting bulk variances to Stacey Micallef and Glen Zielinsky for impervious surface coverage, side yard setback and rear yard setback to permit construction of a deck and shed on property located at 124 Third Avenue. Block 132, Lot 49.

Motion of Taylor, seconded by Groze to approve Resolution ZB-2011-16. Upon roll call the Board voted as follows:

108.

YEAS: Buddenbaum, Groze, Crowell, Fratinardo, Taylor, Adams
NOES: None
ABSENT: Montgomery

Resolution ZB-2011-18

Granting a bulk variance to Lionel Gaymon for impervious surface coverage to permit construction of an in-ground swimming pool on property located at 5 Arbor Lane. Block 166.07, Lot 8.

Motion of Taylor, seconded by Groze to approve Resolution ZB-2011-18. Upon roll call the Board voted as follows:

YEAS: Adams, Buddenbaum, Crowell, Fratinardo, Taylor
NOES: None
ABSENT: Montgomery

Resolution ZB-2011-19

Granting bulk variance to Samuel and Ann Frankel for impervious surface coverage, side yard setback and alley setback to permit construction of a shed on property located at 28 Third Avenue. Block 138, lot 49

Motion of Adams, seconded by Taylor to approve Resolution ZB-2011-19. Upon roll call the Board voted as follows:

YEAS: Crowell, Groze, Buddenbaum, Fratinardo, Taylor, Adams
NOES: None
ABSENT: Montgomery

Resolution ZB-2011-20

Granting Minor Site Plan approval with bulk variances to Helen E. Campbell, VMD for property located at 2126 Old York Road. Block 168, Lot 15.

Motion of Taylor, seconded by Adams to approve Resolution ZB-2011-20. Upon roll call the Board voted as follows:

YEAS: Buddenbaum, Adams, Crowell, Fratinardo, Taylor, Groze
NOES: None
ABSENT: Montgomery

CORRESPONDENCE

- A. Compliance review for Helen E. Campbell, VMD from Engineer Guzzi dated June 8, 2011.
- B. Letter from Burlington County Planning Board dated June 16, 2011 regarding LB Solar, Block 165.01, Lot 4.02.

109.

- C. Letter from Burlington County Planning Board dated June 21, 2011 regarding Scott Blum Office, Block 96, Lots 1, 2, & 3.
- D. Letter from Mr. Michael J. Nuzzi, 183 Kinsman Road, dated June 24, 2011 regarding 1001 Hornberger Avenue Site Alteration.

Motion of Crowell, seconded by Adams to receive and file correspondence. Motion unanimously approved by all members present.

Chairman Fratinardo opened the hearing to public comment. Seeing no one wishing to speak motion was made and seconded to close the public comment. Motion unanimously approved by all members present.

The Board had a brief discussion regarding the status of the resolution for LB Solar. Member Taylor asked that a letter be sent to the applicant explaining the series of events regarding the LB Solar resolution. Solicitor Frank agreed to send a letter to the applicant's attorney.

There being no further business, motion was made by Zekas, seconded by Buddenbaum to adjourn the meeting at 10:14 p.m.

Ray Montgomery, Secretary

RM/ne