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Florence, New Jersey 08518-2323
January 22, 2013

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 Mr. Bott and Mr. Patel.

Upon roll call the following members were found to be present:

William Bott	Candida Taylor
Keith Crowell	B. Michael Zekas
John Groze	Lou Sovak
Larry Lutz	Anant Patel

ABSENT: Brett Buddenbaum

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 2013.

Motion of Taylor, seconded by Groze 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.

Chairman Zekas stated that the next order of business was nomination of Vice Chairman. It was the Motion of Groze, seconded by Taylor to nominate William Bott. Hearing no further nominations, motion was made by Groze, seconded by Lutz to close nominations. Motion unanimously approved by all members present. Member Bott accepted the nomination and thanked the Board.

Chairman Zekas called for nomination for Board Secretary. Motion of Bott, seconded by Groze to nominate Candida Taylor. Hearing no further nominations, motion was made by Groze, seconded by Lutz to close the nominations. Motion unanimously approved by all members present. Member Taylor accepted the nomination and thanked the Board.

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Chairman Zekas called for nominations for Board Clerk. Motion of Taylor, seconded by Bott to nominate Nancy Erlston as Board Clerk. Hearing no further nominations Motion was made by Bott and seconded by Lutz 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 a nomination for Board Solicitor. Motion of Taylor, seconded by Bott for David Frank as Board Solicitor. Hearing no further nominations, Motion was made by Lutz, seconded by Groze to close nominations. The Board voted unanimously to appoint David Frank as Board Solicitor for 2013.

Chairman Zekas called for nomination for Board Engineer. Motion of Bott, seconded by Taylor to nominate Anthony LaRosa of the Birdsall Services Group as engineer for the year 2013. Hearing no further nominations, Motion was made by Lutz, seconded by Bott to close nominations. Motion unanimously approved by all members present. Mr. LaRosa thanked the Board and was seated as Board Engineer.

Chairman Zekas called for nominations for Board Planner. Motion of Groze, seconded by Bott to nominate Barbara Fegley from Environmental Resolutions as Board Planner for 2013. Hearing no further nominations, Motion was made by Lutz and seconded by Groze to close the nominations. Motion unanimously approved by all members present. Ms. Fegley thanked the Board and was seated as Board Planner.

RESOLUTIONS

Resolution ZB-2012-39 Seventh hearing adjournment for Application ZB#2012-05 for Florence PV, LLC

Solicitor Frank said at the end of November correspondence was received from the applicant's attorney asking for an adjournment for about 30 days. There was extensive discussion on the terms of consent for an adjournment. There were some very specific conditions and it was likely at that point that the December meeting was going to be cancelled. The Board decided that a re-notice would be required if the applicant returned. He said this resolution is just housekeeping.

Motion of Taylor, seconded by Bott to approve Resolution 2012-39.

Upon roll call the Board voted as follows:

YEAS: Bott, Crowell, Groze, Lutz, Taylor, Zekas
NOES: None
ABSENT: Buddenbaum

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**Resolution ZB-2013-01
Authorizing the appointment of Zoning Board of Adjustment Solicitor, Engineer
and Planner**

Motion of Lutz, seconded by Taylor to approve Resolution ZB-2013-01.

Upon roll call the Board voted as follows:

YEAS: Bott, Crowell, Groze, Lutz, Taylor, Zekas, Sovak, Patel
NOES: None
ABSENT: Buddenbaum

**ZB-2013-02
Establishing the Annual Schedule of regular meetings and other policies relating to
the New Jersey Open Public Meetings Act.**

Motion of Taylor, seconded by Lutz to approve Resolution ZB-2013-02.

Upon roll call the Board voted as follows:

YEAS: Bott, Crowell, Groze, Lutz, Taylor, Zekas, Sovak, Patel
NOES: None
ABSENT: Buddenbaum

**ZB-2013-03
Adopting rules and regulations for submission and review of applications before the
Florence Township Zoning Board of Adjustment.**

Motion of Bott, seconded by Lutz to approve ZB-2013-03.

Upon roll call the Board voted as follows:

YEAS: Bott, Crowell, Groze, Lutz, Taylor, Zekas, Sovak, Patel
NOES: None
ABSENT: Buddenbaum

APPLICATIONS

- A. Application ZB#2012-05 for Florence PV, LLC. Applicant is requesting use variance and preliminary and final major site plan approval to permit construction of a solar photovoltaic electricity generating facility for property located on Bustleton Road, Florence Township. Block 160.01, Lot 5 and Block 170, Lot 1.01.

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Solicitor Frank said a letter dated January 7, 2013 from Mr. McAndrew, the applicant's attorney, stated the applicant's intent to withdraw the application in light of regulatory and financing developments. This is consistent with the timing the Board gave the applicant. It is in everyone's interest to resolve this and get some closure and that is what the applicant has done. It would be appropriate to dismiss without prejudice to the filing of a similar application in the future because the Board is not making a decision on the application. Solicitor Frank provided a resolution to dismiss the application. Member Taylor wanted to know if there was a time period the applicant would have to wait to file again. Solicitor Frank said there is no time period but it would be an entirely new application. Solicitor Frank explained *res judicata* – something that has been decided. An example would be if the Board denied an application and another applicant applied to do the exact same thing. The Board would say that issue had already been dealt with. If someone brought a different application with changes, it would be heard. Dismissing without prejudice does not prevent someone from coming with the same or a similar application in the future.

It was the Motion of Groze, seconded by Bott to approve Resolution ZB-2013-05 dismissing the application without prejudice.

Upon roll call the Board voted as follows:

YEAS: Bott, Crowell, Groze, Lutz, Taylor, Zekas

NOES: None

ABSENT: Buddenbaum

B. ZB#2012-17 for Kurt Zitzler. Applicant is requesting bulk variances for a shed constructed without prior approval and for a carport on property located at 1009 West Fifth Street, Florence. Block 1, Lot 5.

Kurt Zitzler and the Board Professionals were sworn in by Solicitor Frank. Mr. Zitzler said he is in a small area and the neighbors are close. If he placed the garage where it would have been allowed without a variance it would be against his house. He said he has a small yard. He also did not think his type of garage was a permanent structure. He said the garage is about 3 ½' from one property line and 2' from another. He spoke to the Building Inspector who told he didn't have a problem with it; he just needed to get the variances. Mr. Zitzler said he is thinking of putting in a car port so he wanted to also get approval for that. He has an old car that he works on in his spare time. Right now he has a temporary lean-to. He plans to get a metal car port.

Engineer LaRosa said he looked at the entire property to give the Board an idea of the tight constraint of the area. It is an undersized lot. The application requests approval of an existing accessory building, which is the shed. It is shown on the site plan as existing. The height is question. There is a maximum of 20' high. He said the height is actually less than 20' so there is no variance required. However, the maximum impervious coverage is exceeded. There is also a variance needed for the side yard setback and the distance to the rear alley. The second structure being requested has to do with the

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potential car port. It is not indicated on the site plan. Engineer LaRosa thinks the lean-to structure needs to be inspected. He believes it is something the Code Official might want to inspect for safety. He said when he did the math, it didn't match up and it seems that the applicant might actually encroach on his neighbor with the car port. Mr. Zitzler said the car port starts at 18' X 22' and when it is installed it is customized for the size needed. He said it will be about a foot from his neighbor. Chairman Zekas asked what is next to where the car port will be installed. Mr. Zitzler said there is nothing on his neighbor's property. There was a garage but it was removed. Mr. Zekas was concerned with water run off to a neighbor's property. Mr. Zitzler said there is crushed stone under the car port site and he is going to install a gutter to direct the water to the stone. He said his property is graded pretty flat. He has no drainage issues. He said his neighbors don't have drainage issues and none of them get water in the basements. Member Bott asked if the current lean-to will be removed once the car port is installed. Engineer LaRosa said the setback on the side yard will be 1' to the property line, based on a 14' wide car port. Member Crowell inquired about the average width of a parking space. Engineer LaRosa said it is 9'. Mr. Zitzler said he wants to be able to put children's bikes and such under it also. Board members were discussing the possibility of narrowing the structure. Mr. Zitzler said he is paying for an 18' wide car port and is already going to 14' but is willing to work with the Board. He said his neighbor's garage was on the other side of her yard. It was not near where he is putting his carport. Engineer LaRosa asked if the old garage was a block type. Mr. Zitzler said it was. Also, there are three other garages in his neighborhood that are like his. Engineer LaRosa suggested getting the 12' foot garage shown in the brochure, provided by the applicant, so he would not have to trim it down and it may cost less. Member Crowell asked if this would be an option. Mr. Zitzler said he would be fine with getting the smaller one. Chairman Zekas asked if the applicant was amending his application to install a 12' X 21' car port next to the shed that is currently on the lot. He concurred. Solicitor Frank said what the Board is asking is that he keep a 3' setback from the property line. Mr. Zekas confirmed that the car port will be accessed from the alley and there is already an opening there. Member Taylor suggested getting the car port longer instead of wider. He said his shed has no room for the kids' bikes because it houses all the tools he needs for his handyman business. Chairman Zekas suggested he should not go back further than the shed, but he can make it go forward more than the shed. The Board members also recommended putting sides on the car port and explained it would not change the variance because the impervious coverage would be the same. Solicitor Frank said the Engineer recalculated the impervious coverage regarding the change of size proposed and it is now at about 53%. The percentage drops about 2% by making the car port less wide.

At this time Chairman Zekas opened the meeting to the public for comments regarding application ZB#2012-17. Seeing no one wishing to be heard, Motion was made by Crowell, seconded by Lutz to close the public hearing. All ayes.

Solicitor Frank explained that there is an existing accessory building that is being legalized. For that the Board will need to allow a rear yard setback of 3.2' when 10' is required; a 3' side yard setback to adjoining lot 2 when 5' is required and that brings the impervious coverage up to 38% when 33% is required. The second accessory building, a

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future potential car port measuring 12' X 21' would have a 3' side yard setback to adjoining lot 4, the same 3.2' rear yard setback as the existing building, and the impervious lot coverage would increase to 53%. He said conditions should include gutters along each of the side property lines to direct water to the rear alley and the size of the structure would be 12' x 21'. The application is also subject to the usual conditions.

It was the Motion of Crowell, seconded by Lutz to approve application ZB#2012-17 with amendments. Upon roll call the Board voted as follows:

YEAS: Bott, Crowell, Groze, Lutz, Taylor, Zekas, Sovak, Patel

NOES: None

ABSENT: Buddenbaum Motion Carried.

PUBLIC COMMENTS

It was the Motion of Bott, seconded by Taylor to open the meeting for public comment.

David VanCamp, 7 Canidae Street, Burlington Township, wanted clarification on the resolution regarding the solar farm on Bustleton Road. He confirmed that the application could come back as it was. He was informed that it could be submitted again but that the public notification would again be required. Mr. VanCamp wanted to inform the Board that he is contact with the Governing Body to move an ordinance forward to regulate where renewable energy can be placed. He said it is a service to the residents of Florence and adjacent municipalities, but also to the Zoning Board. Solicitor Frank asked if he was initiating a similar ordinance in Burlington Township. Mr. VanCamp did not know what Burlington Township had in place currently but he was going to research their ordinance. Member Bott thanked him for all of the information he presented at previous meetings.

Fred Heydorn, 2018 Bustleton Road, asked if the application was submitted again, would it need to meet all of the State criteria. Member Taylor said the application would not be grandfathered in; it would need to meet whatever rules were in place at the time of applying.

Chairman Zekas complimented the residents. Their appearance at the meetings was beneficial, professional and educational. He said their voices are important. Member Taylor said she agrees; it was a huge application and would have impacted many lives. She thanked the residents for attending.

It was the Motion of Crowell, seconded by Bott to close the public comments. All ayes.

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MINUTES

Motion of Groze, seconded by Lutz to approve the Minutes from the regular meetings of August 28, 2012 and September 24, 2012 and the special meeting of August 27, 2012. Motion unanimously approved by all members present.

CORRESPONDENCE

- A. Letter from Burlington County Planning Board dated December 12, 2012 regarding LB Solar.
- B. Letter from the Alaimo Group regarding Mandatory Training for New Members and Optional Advanced Course for Experienced Members to be held on Saturday, February 9, 2013 at Deerwood Country Club, Westampton, NJ.

Solicitor Frank said he will teaching at the training On February 9, 2013. He said he does a class for each section. There will also be a question and answer session. Chairman Zekas and Member Bott said they plan to attend the courses.

Motion of Groze, seconded by Lutz to receive and file Correspondence A & B. Motion unanimously approved by all members present.

OTHER BUSINESS

Member Taylor inquired about the Vanco site that is covered with vehicles. Solicitor Frank said the property is in Mansfield Township. It is a depot for Hurricane Sandy vehicles. Audience members said it is an auction site. Member Taylor expressed environmental concerns because of the vehicle fluids that could leak. Member Crowell expressed concern also. Member Bott said he will bring it up to the Environmental Commission. Board members discussed the situation. Solicitor Frank explained that Municipal Lane Use Law tries to accommodate inter-municipal concern in situations such as this, but it could be that the Florence municipal boundary is over the 200' requirement. If they were within 200' of the site notice would need to be sent to the Township Clerk regarding the zoning hearing.

Motion of Taylor, seconded by Bott to adjourn the meeting at 8:39 p.m. Motion unanimously approved by all members present.

Candida Taylor, Secretary

WEB/ak