

Florence, New Jersey 08518-2323
December 5, 2022

The Regular meeting of the Florence Township Zoning Board of Adjustment was held in-person and virtually via Zoom on the above date at the Municipal Complex, 711 Broad Street, Florence, NJ. Chairman Lutz called the meeting to order at 7:31 p.m. followed by a salute to the flag.

Secretary Puccio 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	Joe Cartier
Larry Lutz	Anant Patel
Dennis Puccio	Lou Sovak
Daniel Studzinski	Gina Sullivan (virtual)
Kevin Minton	

Absent: None

Also Present: Solicitor David Frank
Engineer Hugh Dougherty
Planner Barbara Fegley

RESOLUTIONS

There were no resolutions.

MINUTES

It was the Motion of Mr. Puccio, seconded by Mr. Patel to adopt the minutes from the Regular Meeting and Closed Session of November 3, 2022. Motion unanimously approved by all members present.

CORRESPONDENCE

- A. 11/10/22: Compliance Review by Planner Fegley for 2039 Route 130 Florence LLC
- B. 11/14/22: Compliance Review by Engineer Dougherty for 2039 Route 130 Florence LLC
- C. 12/01/22: Compliance Review #2 by Engineer Dougherty for 2039 Route 130 Florence LLC

It was the Motion of Mr. Patel, seconded by Vice Chair Buddenbaum to receive and file Correspondence Items A - C. Motion unanimously approved by all members present.

APPLICATIONS

- A. Application ZB#2022-10: Application by Mithil Poondla for Amended Use Variance seeking relief from already constructed exterior finish and building elevations that do not comply with what was originally approved on property located at 202 Foundry Street, Florence; Block 14, Lot 1.

Mithil Poondla and Ben Catarinicchia were sworn in by Solicitor Frank.

Mr. Poondla stated he is the current owner of 202 Foundry Street. The exterior siding color approved under the original application with the previous owner was not available by the manufacturer, so in order to complete construction, he picked out a different color but stayed with the same manufacturer.

Mr. Catarinicchia stated the brick bottom has been repainted and repointed. The reason for the change in the look and is the supply issues due to Covid. The interior of the building was done as originally approved. The only change is the color of the siding and brick.

Planner Fegley stated she thought all siding was to be vertical. Mr. Catarinicchia stated some is horizontal and some on one side was to be vertical. Planner Fegley stated it does not show that on the plans she has. Mr. Catarinicchia stated it must have been on a later revision and they did have vertical at one point.

Mr. Poondla stated the siding is vertical on top and horizontal on the bottom. Solicitor Frank confirmed that is how it's shown on the construction plans but not on the application plans. Mr. Poondla stated that is correct. Mr. Catarinicchia stated they are asking for that change as well.

In answer to the Board members' questions, Mr. Catarinicchia stated:

- They did not stucco the bottom as originally approved because everything was a supply issue and they wanted to get the project completed.
- The discoloration in brick in the pictures submitted to the Board is because of printing the picture. The brick itself is not discolored.

Chairman Lutz confirmed they are looking for relief for the difference in color, no stucco and redoing the brick, and only a portion of the siding is vertical. Mr. Poondla stated that is correct.

Engineer Dougherty stated he has no questions. He did mention he was asked to do a nighttime lighting check. The initial check was unacceptable; however, he did a 2nd check in early November which was acceptable and his review letter had been distributed to the Board.

Solicitor Frank stated that letter suggests a motion sensor light for the trash area. Mr. Poondla stated there is a motion sensor for the trash area; however, it was not turned on at the time of Mr. Dougherty's check. It is on now.

The meeting was opened for public comment.

The Zoom moderator confirmed that no one was being muted by us.

Hearing no one wishing to speak, it was the Motion of Vice Chair Buddenbaum, seconded by Mr. Patel to close public comment. Motion unanimously approved by all members present.

Solicitor Frank stated we have a request for relief of a condition of approval regarding the exterior of the building. It is up to the Board to deem it aesthetically acceptable. This application is properly before the Board.

It was the Motion of Vice Chair Buddenbaum, seconded by Mr. Cartier to find the exterior aesthetically acceptable and approve this request for ZB#2022-10.

Upon roll call, the Board voted as follows:

YEAS: Buddenbaum, Cartier, Patel, Puccio, Sovak, Studzinski, Lutz
NOES: None
ABSTAIN: None
ABSENT: None

Motion Carried

122.

- B. Application ZB#2021-13: Application by NFI Real Estate, LLC for Preliminary Major Site Plan with Height Variance to construct two warehouses, a portion of one will be located in Mansfield Township, on property located at 2115 Burlington Columbus Road, Florence Township. (Lounsberry Tract); Block 168, Lots 5.01, 5.02, 6, 8 & 11.

Chairman Lutz reminded everyone the Height Variance for this application is the only thing being decided tonight. Mr. Cartier recused himself from this application and took a seat in the audience.

John Gillespie of Parker McCay appeared representing the applicant, NFI Real Estate LLC. He stated this is their 6th meeting before the Board for this application. The record will close after his one witness and cross examination, limited testimony with limited public comment being presented tonight.

He asked to set the record straight that when he stated he did not receive the email containing the letter Mr. Klein sent to the County and referred to at the 11/30/22 meeting, he rechecked his email and did receive the letter. It was emailed to him on 10/3/22 by Matt Madden. Having said that, the letter was dated 6/9/22; however, was not sent out until 10/3/22. The letter itself was not copied to him or his client. He would like the 6/9/22 letter entered as part of the record.

He asked that Michael Landsburg come forward. Mr. Landsburg stated he still considered himself sworn.

Mr. Landsburg stated the following in answer to Mr. Gillespie's questions:

- The 2 tenants of the warehouses on Florence Columbus Road in Mansfield Township are both ecommerce fulfillment. One occupies 250,000 sq. ft. and the other occupies 710,000 sq. ft. One warehouses outdoor equipment, pet goods, etc. that are all serviced on-line. The other is a 3rd party logistics provider for ecommerce. The clear heights are a 36' clear and a 40' clear. The building heights are 6 – 10 feet taller than the clear height.
- The proposed driveway for this project is approximately 1 ½ miles from Route 130.
- The total building coverage allowed for this site is 30%. They are proposing 25%. Approximately 7 acres is not being built on by not utilizing the full 30% allowed.

Planner Fegley asked if that was building and pavement coverage, or just building? Mr. Gillespie stated just the building as Florence Township has only the building coverage in its ordinance.

Solicitor Frank stated we should open for public comment specifically with what was presented tonight.

The meeting was opened for public comment.

The Zoom moderator confirmed that no one was being muted by us.

Hearing and seeing no one wishing to speak, it was the Motion of Mr. Patel, seconded by Mr. Puccio to close public comment. Motion unanimously approved by all members present.

Mr. Gillespie stated to confirm, the record is now closed. He stressed that this is a permitted use in the zone. If they did not need a Height Variance, they would be in front of the Planning Board. The township allows this use, but it cannot be done in this zone with the height that is allowed. The height allowed is obsolete.

123.

Solicitor Frank stated the applicant is before us with a request for a Height Variance. The applicant had bifurcated their application. They first came to us as a Height Variance and Preliminary Major Site Plan approval. It has been bifurcated to just the Height Variance because that is the key issue. It is the applicant's burden to both demonstrate the positive and negative criteria to the variance to not be substantially detrimental to the public good or the intention of the zone.

Board Clerk Federico put on the record that the Board Members that had missed meetings during the course of this application's hearing have either listened to the audio recording or viewed the Zoom recording of the meeting they missed. They are as follows: Gina Sullivan, 5/6/22; Dennis Puccio, 6/2/22; Lou Sovak, 8/1/22; and Kevin Minton, 9/1/22 & 11/30/22.

Solicitor Frank stated since Mr. Cartier recused himself, Ms. Sullivan is eligible to vote.

Chairman Lutz asked for a Motion to either approve or deny the Height Variance for this application.

It was the Motion of Mr. Puccio, seconded by Vice Chair Buddenbaum to deny the Height Variance for ZB#2021-13.

To clarify, a 'yes' vote for the Motion to deny is to agree with the denial.

Upon roll call, the Board voted as follows:

YEAS:	Puccio, Buddenbaum, Patel, Sovak, Studzinski, Sullivan	
NOES:	Lutz	
ABSTAIN:	None	
ABSENT:	None	Motion Carried

Mr. Gillespie asked for a Motion to confirm their Preliminary Major Site Plan and Parking Variance is deferred to whenever the Height Variance is finally decided.

It was the Motion of Mr. Patel, seconded by Vice Chair Buddenbaum to grant the deferral. Motion unanimously approved by all members present.

Mr. Gillespie thanked the Board for their consideration and wished everyone Happy Holidays.

The Board took a 10-minute recess at 8:01 p.m.

The meeting was back in session at 8:15 p.m. Mr. Cartier rejoined the Board.

C. Application ZB#2022-08: Application by Mohamed Ibrahim & Hala Elshorbagy for Use and Bulk Variance to construct a 3-story, 3-unit residence on property located at 700 W. Front Street, Florence; Block 16, Lot 17.

Mohamed Ibrahim and Hala Elshorbagy of 9 W. 37 Street, Bayonne, NJ 07702 were sworn in by Solicitor Frank.

Mr. Ibrahim stated they are proposing a 3-story, 3-unit building on property located at 700 W. Front Street. Variances are required because of the area of the house.

124.

Chairman Lutz mentioned their application mentions building the first story and part of the 2nd story now and completing the remainder at a later date.

Mr. Ibrahim stated they would like to build it in stages. Stage 1 would be the first story. Once that is complete, they would move in and finish the remainder of the building later.

Chairman Lutz asked Planner Fegley to discuss her review letter. Planner Fegley stated her letter is dated 10/16/22. She is looking for testimony for the reasons for the Use Variance, but first would like an explanation of how this construction would proceed since they are proposing to build it in stages; how will they make a finished structure when doing it in pieces?

Mr. Ibrahim likened it to building a skyscraper and how that is done in stages. He stated they can do this with this building since it is 3 stories. They do not want a basement, so that is why the 3 stories.

Mr. Ibrahim stated the following in answer to Board members' and professionals' questions:

- The 2nd story floor will be the roof for the 1st story. It will be a flat roof and will be sealed so it is waterproof.
- They plan to build the 1st story and occupy it before building to the 2nd story.
- The building will be brick and concrete. They do not have all the materials together as to what is going to be used.

Planner Fegley stated she has a concern because she does not understand how this structure can be built in stages.

Discussion took place over the small lot size of 4,680 sq. ft. and the RC zone requirement of 5 acres for having multiple units. Mr. Ibrahim stated there are a lot of 3 story houses in the township. Solicitor Frank stated this hearing is just like being in a court of law. When you come to court, you have to show photos of houses in the neighborhood. Mr. Ibrahim stated he submitted one with the application. Chairman Lutz stated that photo was from Realtor.com and he needs to show other examples to the Board. Mr. Ibrahim stated if this is going to bother the township, it's because of the impervious coverage, not because of an extra story. Chairman Lutz stated the issue is that this project is going to exceed every township ordinance for the RC zone.

Planner Fegley discussed her bulk standards listed on page 2 of her letter mentioning that variances are needed for lot coverage and every setback, as well as a height variance as 2 stories with a basement (not for living space) is allowed. Three stories is a major lift in height.

Planner Fegley also mentioned she wanted additional testimony on parts of Ordinance 91-203; what rooms are being proposed and their sizes for each unit. Testimony is also needed regarding trash and recycling.

Ms. Elshorbagy argued that the ordinance for RC refers to RB, RA and R, so feels what is accepted in those zones should be accepted here. The Board professionals referred to the code book and the RC purpose and permitted uses. Solicitor Frank stated the only fallback in that zone is for a single-family dwelling. Apartments are allowed in the RC zone, but they have bulk standards, which none are met with this application.

Chairman Lutz explained that each apartment is a unit, and each unit requires certain bulk standards.

125.

Solicitor Frank stated the applicants are just not understanding and that they should have a professional, or professionals, representing them for this application. He stated they would not go into court without having someone knowledgeable.

Mr. Ibrahim stated they did hire an architect for the site plan. Chairman Lutz stated they should also hire a Land Use Attorney.

Engineer Dougherty stated the way he looks at this application is that it is not permitted with any of our rules. They have an architectural plan, but no professional's name on the plan. They need to have a professional speak for them. They need an attorney and an architect. He is not saying the property is not buildable. He is saying what they are proposing is not allowed.

Ms. Elshorbagy asked if the Board could tell them how much they can build on the property? Solicitor Frank stated it is not the Board's place to tell them what they can build; it is up to them to propose what they wish to build and present the argument as to why they should be allowed to build it.

Solicitor Frank stated they are not here to be difficult or to be obstructive. But they have to understand the town has laws that apply to everybody. When people have a property and think something is special about that property, they sometimes don't think the rules apply to that property. They then come before this Board and state why they think that. This is not a negotiation. This is not just a conversation; this is like a court. It is presenting evidence. One can be a capable person and not understand what is evidence. It is clear to him and the Board that they do not understand what they need to present to the Board. The Board Members are your judges; he is the Board's advisor. He told the applicants that they need to get an attorney, a planner, and an engineer to help them through this process. The Board professionals are not here to do that for them.

Engineer Dougherty added that the NJ Residential Site Improvement Standards (RSIS) requires a structure this size to provide 7 off-street parking spaces.

Chairman Lutz stated if they need time to hire professionals and provide more information for this application, the Board can adjourn this application to the January 9, 2023 meeting at 7:30 PM.

Mr. Ibrahim stated they would like to seek that adjournment and will be back to convince the Board why they should approve this.

It was the Motion of Mr. Patel, seconded by Mr. Puccio to adjourn application ZB#2022-08 to the January 9, 2023 meeting to be held at 7:30 PM. No further notice is required.

Chairman Lutz advised the applicant to return with their professionals.

Solicitor Frank stated we are not having public comment this evening because the applicant did not present a case that is in any way complete enough for the Board to review it. We are going to ask that the Board and public hear their whole case before having public comment.

OTHER BUSINESS

There was no other business.

PUBLIC COMMENT

The meeting was opened for public comment on general zoning matters.

126.

The Zoom moderator confirmed that no one was being muted by us.

Shirley Abreu, owner of 709 W. Second Street, stated she will be on a mission trip in January, but does have access to the internet. She asked if the agenda and Zoom meeting information could be emailed to her for that meeting.

Jeffrey Pettit of 617 W. Second Street stated he will hold his comments until next meeting.

Keith Crowell of 74 Creekwood Drive felt, procedurally, this meeting was a circus tonight. It is hard for people to come out to these hearings and respectfully asked that as Board members, to be mindful of that with an application like the one for 700 W. Front Street. He then asked for the lighting ordinance to be emailed to him.

Christine Pukenas of Florence Columbus Road thanked the Board for the amount of time put into the NFI Lounsberry Tract application and said they made the right decision.

Seeing and hearing no one else wishing to speak, it was the Motion of Mr. Sovak, seconded by Mr. Cartier to close public comment. Motion unanimously approved by all members present.

CLOSED SESSION

A. Resolution ZB-2022-17: Closed Session for Discussion of Personnel Matters

It was the Motion of Mr. Puccio, seconded by Mr. Patel to enter into Closed Session for the purposes of discussing personnel matters. Motion unanimously approved by all members present

The Board entered into Closed Session at 9:21 PM.

The Board was back in Open Session at 9:32 PM.

It was the Motion of Mr. Cartier, seconded by Mr. Sovak to enter back into Open Session. Motion unanimously approved by all members present.

ADJOURNMENT

Chairman Lutz thanked everyone for their time and hard work.

It was the Motion of Mr. Cartier, seconded by Mr. Patel to adjourn the meeting at 9:33 PM. Motion unanimously approved by all members present.

, Secretary

/kf