

Florence, New Jersey 08518-2323  
April 1, 2024

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

Secretary Sullivan 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:

Anant Patel (virtual)

Dennis Puccio	Lou Sovak
Daniel Studzinski	Gina Sullivan
Charles Wible	Kevin Minton
James Fevola	

Absent:                   Brett Buddenbaum  
                              Planner Edward Fox (Excused)  
                              Engineer Hugh Dougherty (Excused)

Also Present:           Solicitor David Frank

#### RESOLUTIONS

There were no resolutions

#### MINUTES

It was the Motion of Mr. Studzinski, seconded by Mr. Sovak to adopt the minutes from the regular meeting that was held on March 4, 2024. Motion unanimously approved by all members present.

#### CORRESPONDENCE

A. NJDEP Final Solid Waste Facility Permit letter dated March 20, 2024

There is no action needed on this correspondence and the state is required to send this to the Board.

Motion by Mr. Wible, seconded by Ms. Sullivan to accept and file the correspondence. Motion unanimously approved by all members present.

#### APPLICATIONS

There were no applications

#### OTHER BUSINESS

A. JIF Land Use Liability Training

Solicitor Frank explained that the JIF is the Burlington County Joint Insurance Fund and was formed as an insurance cooperative with other municipalities in the 1980s. The JIF is dedicated to reducing risk. The JIF administers trainings to all the departments in the township on a wide range of topics.

20.

In the context of Land Use Boards, the JIF is concerned about the monetary liability for the behavior of Land Use Boards. That liability can arise if we were to violate someone's civil rights. The purpose of this training is so the JIF will provide a defense if we, or an individual on the board, were to be sued for violating an applicant's civil rights. Although, it is a very rare instance for an individual to be sued.

The board performs a quasi-judicial function as members of the Zoning Board. The board has the same kind of protections of liability as judges have. Florence Township also has a provision in their ordinances that requires the municipalities to defend in the event of a claim raised against a member of the board. By taking this class, along with the ordinance provision, the members of the board are protected.

When it comes to conflicts of interest, we are governed by the Municipal Land Use Law, which states that a member cannot act in any matter in which he/she has a personal or financial interest. The MLUL is mostly concerned with whether or not a member is allowed to sit on an application. The Local Government ethics law is a separate path to liability for conflicts of interest as well as a potential recusal and whether or not the members are living up to their oath.

At a constitutional level there needs to be an outlet for people to get relief when applying the general rule of the ordinance or statute where it is unfair or makes no sense. In New Jersey, under the MLUL, every town must have a Zoning Board of Adjustment or body that performs the function of the Zoning Board. The government has the right to take property under the fifth amendment of the constitution and under similar provisions in New Jersey's constitution. The government can take property but it has to be for a public purpose and they have to provide just compensation.

Another area of concern is the Religious Land Use and Institutional Persons Act (RLUIPA). This act says that "no government can impose a land use regulation that creates a substantial burden on religious exercise unless in furtherance of a compelling governmental interest that is the least restrictive way of accomplishing that objective." In general, government regulation is presumed to be valid as long as it implements a legitimate regulatory purpose. There are some areas where the courts have imposed strict scrutiny which involves protected classes such as race, gender, nationality, and exercise of religion. The board needs to be very careful when it comes to exercising of religion and not to place any impediments to their exercise of religion.

Adult bookstores and movie theaters are not as much of an issue as they were years ago. Before the internet, every town had to have somewhere within its boundaries where adult uses would be permitted. There could be reasonable limitations on them, such as away from residential areas or only allowed in highway commercial areas. We aren't adopting any regulations on this, but we may someday be faced with a situation where someone asks for a variance for a location of an adult use.

It is important to treat everyone equally. We can't enforce a rule against someone and not against others based on their religion or race...etc. All of our decisions are based on credible evidence in the record. Selective enforcement is something to be aware of.

The next section is Land Use Board Meeting Conduct. It is exceedingly rare to have disruptive members of the public at our meetings. The Chairman can call for the police or have people

21.

removed if necessary. It is always better to afford people more time for public comment as well as time to show exhibits and evidence as opposed to less.

We cannot meet with applicants or objectors outside of a board hearing. If someone comes up to a member and wants to talk about what is before the board, we have to state that we cannot talk about it outside of a meeting, the ethics rules forbid talking about it. Regarding site visits, if you cannot see it out of your windshield you cannot see it personally. If a member wants to see it, then we have to get the applicant to produce photos of the interior/aerial views. The other option is to request this of the board professionals. If, for some reason, we really need to do a site visit then it is considered a meeting of the board. It has to be noticed to the public, it is attended by the applicant and any members of the public who want to attend. There is also a log of who is there, no one is allowed to talk about what they are seeing or running commentary. It is very formal, because the board are judges.

It is important to create an environment where your staff and attorney are encouraged to tell you what should hear, and not necessarily what you or the public wants to hear. Do not meet with applicants or opponents to an application alone. Also avoid saying anything that can be construed as bias, both at meetings and elsewhere.

Mr. Wible asked if the applications received at the Zoning Board ebbs and flows. Solicitor Frank said that typically when the weather starts to warm up, residents decide to install pools and usually most properties in town need a variance for this. Also, when the weather gets nicer, residents tend to start more projects so we should be getting more applications. The economic situation always has a lot to do with larger applications.

It was the Motion of Mr. Studzinski, seconded by Ms. Sullivan to approve Resolution ZB-2024-09 and enter into Closed Session for the purpose of discussing ongoing litigation with NFI Industries. Motion unanimously approved by all members present.

#### PUBLIC COMMENT

There was no one from the public attending in person and the Zoom moderator confirmed that no one was being muted by us.

#### ADJOURNMENT

It was the Motion of Ms. Sullivan, seconded by Mr. Fevola to adjourn the meeting at 8:39PM. Motion unanimously approved by all members present.

---

Gina Sullivan, Secretary

GS/amh