

Call to Order:

The meeting was called to order at 7:00 p.m. by Vice Chairman Salvadori who read the following statement: “Notice of this meeting was given as required by the Open Public Meetings Act in the Annual Notice of Meetings. This notice was sent in writing to the South Jersey Times on January 8, 2016. A copy was posted on the second floor bulletin board of Town Hall and a copy was given to the Township Clerk. In addition, notice for this evening’s public hearings was sent in writing to the South Jersey Times on June 7, 2016”.

The Board saluted the flag.

Roll call: Present – Mr. Carney, Mr. Fritz, Mr. Kozak, Mr. Manfredi, Mr. Mercado, Ms. Capate, Mr. Salvadori. Absent – Ms. Hui, (excused), Mr. McLaughlin, (excused). Also present – Mr. Marmero, Solicitor, Ms. Pellegrini, Planner, Mr. Sander, Engineer, Mr. Heffner, Council Liaison.

Memorialization of Resolutions:

1. #16-26 – App. #16-19 – Gerald Williams – Lot Area, Buffer, & Height Variances Approved

Motion by Mr. Carney, seconded by Mr. Fritz to adopt resolution #16-26. Roll call vote: Ayes – Mr. Carney, Mr. Fritz, Mr. Kozak, Mr. Mercado, Ms. Capate. Nays – Zero. Abstentions – Zero.

2. #16-27 – App. #16-20 – Dave Dailey – Lot Area & Buffer/Side Yard Variances Approved

Motion by Mr. Kozak, seconded by Mr. Fritz to adopt resolution #16-27. Roll call vote: Ayes – Mr. Kozak, Mr. Fritz, Mr. Carney, Mr. Mercado, Mr. Salvadori. Nays – Zero. Abstentions – Zero.

3. #16-28 – App. #16-21 – Angelo Tantaros – Use Variance Approved

Motion by Mr. Carney, seconded by Mr. Fritz to adopt resolution #16-28. Roll call vote: Ayes – Mr. Carney, Mr. Fritz, Mr. Kozak, Mr. Mercado, Mr. Salvadori. Nays – Zero. Abstentions – Zero.

4. #16-29 – App. #16-22 – Eric Straub – Lot Area & Buffer/Side Yard Variances Approved

Motion by Mr. Fritz, seconded by Mr. Carney to adopt resolution #16-29. Roll call vote: Ayes – Mr. Fritz, Mr. Carney, Mr. Kozak, Mr. Mercado, Mr. Salvadori. Nays – Zero. Abstentions – Zero.

5. #16-30 – App. #09-02 – Fazzio/Giloley – Use Variance Extension Approved

Motion by Mr. Carney, seconded by Mr. Kozak to adopt resolution #16-30. Roll call vote: Ayes – Mr. Carney, Mr. Kozak. Ms. Capate. Nays – Zero. Abstentions – Zero.

Public Hearings:

1. #16-23 – Jeffrey Reitz – Lot Area & Buffer/Side Yard Variances

Present – Jeffrey Reitz, applicant.

Member's packets contained: 1. A copy of the applicant's variance application and proposed solar array plan. 2. Report dated June 20, 2016 prepared by Maser Consulting. 3. Report dated June 16, 2016 prepared by Rosemary Flaherty, Zoning Officer.

The applicant is proposing to install a ground mount solar array at the rear of his property. As proposed the applicant will require a lot area variance where three acres is required and the applicant has just over two acres; and a rear yard buffer variance where fifty feet is required and the applicant has fifteen feet. The property is located at 838 Newton Avenue, also known as Block 2901, Lot 27.01 in the RG-MR Zoning District.

Mr. Reitz was sworn in by Mr. Marmero. He stated that he is proposing to install a ground mount solar array in the rear of his property. Mr. Salvadori asked if the application could be deemed complete. Mrs. Farrell replied that the application can be deemed complete. Motion by Mr. Fritz, seconded by Mr. Mercado to deem application #16-23 complete. Voice vote; all ayes, motion passed. Mr. Kozak asked Mr. Reitz why he is proposing ground mount solar instead of roof mount. Mr. Reitz replied that he felt he has enough property to have the ground mount solar array and would rather not put them on his house. Mr. Marmero asked if the panels were installed on the roof would they adequately offset the electricity costs. Mr. Reitz stated that they would not offset the electricity if they were installed on the roof.

Ms. Flaherty reviewed her report for the Board. Ms. Flaherty stated that the property is located in the Pinelands but she did not believe this application required a Certificate of Filing. The property is very well maintained and one of the reasons she asked Mr. Reitz to relocate the solar array more to the rear is so the existing trees can act as a natural buffer. She is also recommending the Board waive the requirement for sidewalk. Ms. Pellegrini commented that the letter she prepared was based on the original solar array location and she did not receive the plan with the new location; however based on the new location she agreed that no additional buffering is required.

Motion passed to open the hearing to the public. There being none, motion passed to close the hearing to the public.

Mr. Marmero reviewed the two required variances for lot area and rear yard setback. Motion by Mr. Kozak, seconded by Ms. Capate to grant the required variances. Roll call vote: Ayes – Mr. Kozak, Ms. Capate, Mr. Carney, Mr. Fritz, Mr. Manfredi, Mr. Mercado, Mr. Salvadori. Nays – Zero. Abstentions – Zero.

Public Hearings: (continued)

2. #16-09 & #WSP-40-16 – Michael Markman – Use Variance/Site Plan Waiver

Present – Michael Markman, applicant, Len Schwartz, applicant’s attorney.

Member’s packets contained: 1. A copy of the applicant’s use variance application and site plan waiver application with photographs. 2. Report dated April 8, 2016 prepared by Pam Pellegrini. 3. Report updated June 16, 2016 prepared by Rosemary Flaherty, Zoning Officer.

The applicant is requesting a use variance in order to be allowed to store office trailers, landscape trailers, boats, and motor vehicles on his property. In addition, the applicant has had storage units located in the “chicken coops” for approximately 30 plus years which requires approval as well. The applicant is required to submit a site plan waiver application in conjunction with the use variance. The property is located at 1651 New Brooklyn Road, also known as Block 2501, Lot 19.01 in the R-2 Zoning District.

Mr. Schwartz introduced himself as the applicant’s attorney. Mr. Markman was sworn in by Mr. Marmero. Mr. Salvadori commented that Mr. Markman was before the Board previously with his use variance application which was deemed complete at that time. Mr. Schwartz stated that he was not present at the first hearing for Mr. Markman but it is his understanding that an issue was raised with regard to the storage of office trailers, landscaping vehicles, and the storage units in the “chicken coops” on this property. The hearing was adjourned to this date and the applicant is before the Board to continue his use variance hearing. Mr. Schwartz stated that Ms. Flaherty, the Zoning Officer, visited the site and checked the units in the “chicken coops” and also the storage in the freestanding pole barn and as a result of that visit Mr. Markman has also submitted a site plan waiver application.

The landscaping vehicles are only being stored on this property. The landscaper does not have an office there nor does he operate his business at the property. The same is true for the mobile office trailers. The company will come to the site and remove an office trailer when needed on a work site and then they will bring it back. They do not operate their business from that property. When the Zoning Officer was at the site we discussed with her the issue of storing the mobile vehicles in the rear of the “chicken coops” so they will be out of site. Mr. Schwartz displayed the plan for the Board which had previously been marked as Exhibit A-1. The plan showed the area where trees are being planted along the frontage of the property for screening as well as along the side. Photographs were displayed that showed the property from New Brooklyn Road back to the “chicken coops”, the pole barn, and the areas where the vehicles are being stored. The photographs were marked as Exhibit A-2. Mr. Schwartz displayed a photograph of the front open area of the property. He indicated that when the Zoning Officer visited the site she suggested that Mr. Markman use that area for additional storage of commercial vehicles by either putting down stone or paving the area and installing parking bumpers.

Public Hearings: (continued)

2. #16-09 & #WSP-40-16 – Michael Markman (continued)

Mr. Markman testified that he has purchased the stone and it is on the site but still has to be spread out over the area. Mr. Schwartz distributed photographs that depicted the site after the Zoning Officer visited the site which were marked as Exhibit A-3. The photographs showed additional trees that were planted along the front fence line for added screening, the repainting of the “chicken coops” along with new woodwork and numbering of the storage units, and an area where a berm has been added with some landscaping to block the office trailers being stored in that area. There are two entrances to the site; both entrances are gated and kept locked. The tenants do have access by use of a remote. Mr. Markman had previously made a sidewalk contribution in lieu of providing sidewalk when he received approval for the subdivision.

Mr. Markman did submit letters and leases from the tenants of the “chicken coops” which were being rented when he purchased the property. The oldest lease goes back to 1984 and that tenant still rents space at the property. Mr. Schwartz stated that because the units have been being rented for such a long period of time, there was discussion on submitting for a Certificate of Nonconformity rather than a use variance; however it was determined that they should apply for the use variance for the entire site. The use variance will be specifically for the storage of office trailers, storage in the “chicken coops”, storage of landscaping trucks and/or other vehicles, and storage in the existing pole barn. Mr. Marmero stated that it’s essentially commercial storage. Mr. Schwartz commented that they also included the front parking area for future use at the suggestion of the Zoning Officer.

Mr. Carney asked if the landscaper stores fertilizer, pesticides, etc. on the property. Mr. Markman replied that all of the products he stores are bagged and stored in his storage unit; nothing is stored or stockpiled outside. Ms. Pellegrini reviewed her report for the Board. She asked the applicant for clarification on whether the employees of the landscaping company park their vehicles at the site during the day. Mr. Markman replied that they do park their personal vehicles at the site during the day and they take the landscaping vehicles to work. She also inquired as to the vehicles stored in the pole barn and whether or not they are being restored at the site. Mr. Markman stated that they are not being restored at the site, only stored at the site. Ms. Pellegrini inquired as to whether both gates are utilized to access the site. Mr. Markman replied that the one gate with the electronic gate remote is the one that is used most often; the other gated access is used for when the office trailers come back to the site and/or if there is a power outage and the electronic gate access cannot be used. There is a combination lock on the second gated access.

Mr. Sander commented that Mr. Schwartz keeps referring to the site plan of the property but it technically is not a site plan. He asked what the intention is for the property. Mr. Schwartz replied that the plan being referred to shows exactly what is there and there is no intention to do anything more than what it there on the site. That will be reflected in an approving resolution.

Public Hearings: (continued)

2. #16-09 & #WSP-40-16 – Michael Markman (continued)

The applicant will not be able to have any further construction at the site. The only addition to what is already there and has been there is the addition of the future parking area and parking bumpers. Mrs. Farrell explained that most of the time the Planning Board deals with site plan waivers. They are a very common application for sites that already exist that will not have any further construction. The applicant has provided the information asked for in the site plan waiver application and the professionals do not review a site plan waiver application. Ms. Pellegrini asked if the applicant was willing to limit the storage of vehicles to the areas shown on the plan. Mr. Markman stated that the area on the plan that indicates it is a dirt area is the area where it was discussed he could possibly have more vehicles parked if it was stoned and parking bumpers were installed. But other than that additional area that may be used; what is shown on the plan is the limit of what he uses now and he does not intend to extend those limits.

There was some discussion on the minor subdivision approval in 2003 and what was stated the property would be used for which is not what it is being used for with the exception of the chicken coops which the applicant indicated were being used for storage rental units when he purchased the property. Mr. Marmero stated that is why the applicant is before the Board to get a use variance to allow the uses that have been on the site to continue. Mr. Schwartz commented that since Mr. Markman purchased the property he was in contact with the prior Zoning Officer and he knew exactly how the property is being used. The use of the chicken coops was there well before Mr. Markman purchased the property and he could bring forth witnesses who would testify to that; so essentially that use could be a pre-existing nonconforming use and they could have asked for a Certificate of Nonconformity for that use on the site but instead he is before the Board for the entire site for vehicle storage and personal rental storage in the chicken coops. Mr. Schwartz introduced a letter from the previous Zoning Officer which indicated that as long as Mr. Markman continued to use the property as it was being used and as a landlord, he did not have to apply for a use variance or a site plan. Mr. Fritz commented that the letter was not on letterhead and anyone could have typed that letter. Mrs. Farrell replied that she found a copy of that letter in Mr. Markman's file from Mr. Weikel's office so Mr. Markman or someone else could not have typed it; it was done by Mr. Weikel. The letter was marked as Exhibit A-4. Mr. Schwartz stated that Mr. Markman was under the impression that his uses were permitted. Mr. Markman stated that he honestly did believe the use of his property as it is was permitted. He did not mean to offend anyone and is trying to do the right thing now by coming before the Board. He did not realize the rental storage did not encompass the outside area. He had been in to apply for fence permits and he was never told by anyone that his property was in violation. Mr. Schwartz also submitted a copy of the zoning permit for the pole barn which was marked as Exhibit A-5. Mr. Schwartz indicated that there were inspections done of the property at that time and no one questioned Mr. Markman's use of the property.

Public Hearings: (continued)

2. #16-09 & #WSP-40-16 – Michael Markman (continued)

Mr. Markman stated that he did not really discuss with Mr. Weikel the uses on the property but that Mr. Weikel had been by the property many times. Mrs. Farrell stated that if Mr. Weikel was still here Mr. Markman would not be before the Board; however Ms. Flaherty is the new Zoning Officer and is trying to get different properties cleaned up and in compliance. Mr. Markman did a great job in getting the property cleaned up and Ms. Flaherty will make sure that Mr. Markman keeps the property the way he states he will keep the property.

Ms. Flaherty stated that she has not heard the positive and negative criteria from the applicant. Mr. Schwartz replied that he thought the applicant provided that at the last meeting. Mr. Markman testified that he purchased the property in October of 2000. The surrounding uses at that time were mainly farmland. The property he purchased was approximately thirteen acres and included the house. In 2003 he subdivided off lots on each side of the property in question. The property with the house was sold and two residential homes were built on the other lots. Mr. Schwartz asked if there has been any negative impact to the area with regard to the uses on the site now. Mr. Markman stated he doesn't believe there has been any negative impact. The two homes built across the street both have business even though they are residential uses, the property is maintained, it is not an eyesore, and impact to the traffic is minimal. There may be a couple of tenants that come to the site daily but it's not a steady flow. The workers for the landscaper do access the site just about every day but they do not impair the traffic. The office trailers get moved maybe one every couple of months or so and the chicken coop storage really is random, not a consistent daily flow of cars. Mr. Markman stated that he has not seen any negative impact to the neighbors across the street or the other surrounding uses; as a matter of fact his property looked much the same when the neighbors built their homes across the street so they knew what was there already.

Mr. Schwartz asked Mr. Markman what positive affect does he think his business has on the surrounding neighborhood and the town. Mr. Markman replied that his tenants are very happy to have a local place to store their vehicles and their personal items that is secure and easily accessed. He believes his property provides a service to the public and does not cause any negative impacts as he has never had any issues or complaints from the neighbors or the town. Mr. Markman stated that he has had a lot of positive feedback on the recent upgrades to the property with the landscaping and painting of the chicken coops. Ms. Flaherty asked the number of commercial vehicles Mr. Markman will park in the front area which is proposed for additional parking and the area to be stoned or asphalt. Mr. Markman stated that he was going to make that area a stone parking area since an impervious surface might impede the drainage. With regard to the number of vehicles proposed to be parked in that area Mr. Markman indicated that the plan shows fourteen 10' x 20' spaces and three 10' x 40' spaces in the front proposed stoned parking area.

Public Hearings: (continued)

2. #16-09 & #WSP-40-16 – Michael Markman (continued)

The fourteen spaces will also include parking for people renting the individual units. Ms. Flaherty inquired as to the number of mobile home trailer parking spaces. Mr. Markman stated that he does not have a set number of parking spaces based on size for the trailers since some may be 10' x 20' and some may be 10' x 40' depending on what they bring to the site, so it's more just an area. Ms. Flaherty stated that since the applicant indicated he was going to use the property for another purpose when he applied to the County back in 2003, she thought an application to the County was necessary for the current use. She also recommended that the applicant postpone the site plan waiver to the next meeting until there are exact numbers of parking spaces and vehicles parking on the site. Mr. Schwartz replied that the applicant does need anything from the County with regard to an approval. In addition when speaking of the parking area, the only reason the applicant is showing a parking area in the front middle of the site is because the Zoning Officer suggested he may want to add a parking area there for additional commercial vehicle parking. He apologized for getting upset but stated he had an issue when the Zoning Officer made the suggestion and his client followed that suggestion and now the Zoning Officer is suggesting he come back with a site plan application. If the Zoning Officer doesn't want the additional parking on the site then they will remove it from the plan. Ms. Flaherty replied that she did not say she had a problem with the parking but that she wanted the exact numbers of vehicles going to be parked on the site and the number of spaces so there wouldn't be any issues in the future.

Mr. Schwartz stated that his client did not intend to have any additional parking. He originally was asking for the office trailer parking, the landscaping truck parking, the storage in the pole barn, and the storage in the chicken coops. Mr. Markman stated that he did remove the vehicles Ms. Flaherty asked him to remove; he did make the improvements suggested by the Zoning Officer and that he wants his property to look nice. He does not want the additional parking area to be an issue with regard to his application this evening. There was some discussion on what area on the plan submitted was the additional parking area. Mr. Markman pointed out that it was the area showing the fourteen 10' x 20' spaces and the three 10' x 40' spaces. He also added some parking spaces in front of the one storage building. It was suggested by Ms. Flaherty that the businesses across the street may want to start parking their commercial vehicles there in the future which is why he added the additional parking area. Ms. Pellegrini stated that the plot plan in front of the Board does distinguish areas of use and what those areas are used for. She thought the Board could make a determination on the site plan waiver if it is made clear and placed on the record the areas of use. She stated that putting a specific number on the vehicles is difficult to enforce. Mr. Kozak commented that it sounds like the Zoning Officer was trying to guide the applicant with regard to how the site should be laid out to benefit him and to look good for the area and he has complied with the suggestions of the Zoning Officer. Ms. Flaherty replied that she was just trying to help Mr. Markman and that she just saw the plot plan this evening.

Public Hearings: (continued)

2. #16-09 & #WSP-40-16 – Michael Markman (continued)

She stated she wants the applicant to be specific on the number of office trailers and the number of vehicles that will be parked in the added middle area. It's a big lot and the applicant should be able to maximize the uses if he is receiving a use variance. Mr. Markman stated that he would estimate a maximum of forty office trailers to be located in the area behind the chicken coops. There was further discussion on the issue of the applicant needing a minor site plan. Mr. Markman stated that what is shown on the plan was measured out at the site and he can testify that he will limit the number of vehicles to what is outlined on the plan. Mr. Mercado questioned the access drives and commented that the applicant should have permission from the County for those two access drives since they are on a County road. Mr. Salvadori asked Mr. Schwartz if he thought the applicant needed an application/approval from the County. Mr. Schwartz stated that he did not believe the applicant needed anything from the County since the property has existed along with the access drives and fencing for well over ten years. The County was given additional right-of-way when the subdivision was done in 2003. He also stated that the property and application are consistent with the Township code for applying for a site plan waiver; with the exception of the added commercial parking; however they can remove that from the plan if the Board doesn't want it there or if it will require the applicant to come back with a site plan. Otherwise everything else is already existing.

Ms. Pellegrini commented that a change of use or an application for a use variance does not require County approval. The change of use doesn't necessarily trigger the necessity for a County approval. A minor site plan application would trigger the need for County approval if they were proposing improvements to the property. Ms. Flaherty stated that if the Board approves the site plan waiver it will be up to the County if they want a site plan or not. Mr. Kozak stated that the approval can be subject to the County. Ms. Flaherty stated that's up to the Board. Mr. Marmero stated that nothing has been submitted to the County because it's not required with this application but the Board can make it a condition that the applicant get County approval or a letter of no interest. Ms. Pellegrini stated that there isn't a process for that; there is not an application to the County for a letter of no interest.

Motion passed to open the hearing to the public. There being none, motion passed to close the hearing to the public.

Mr. Marmero reviewed the applications for the Board. He stated that the Board would be voting on a use variance application and a site plan waiver application. The use variance would allow the applicant to continue the use of a commercial storage location. The conditions discussed was that the applicant would berm the multi storage area, no further construction or improvements except for the stone, commercial storage would be limited to the existing areas and buildings as well as the additional stone area shown in Exhibits A-1 and A-2.

Public Hearings: (continued)

2. #16-09 & #WSP-40-16 – Michael Markman (continued)

In addition the applicant must obtain a letter of no interest from the County for the use variance. The ordinance does allow the Board to waive the site plan requirements if they feel they have enough information about the site. There will be two separate motions, one for the use variance and one for the site plan waiver. There was further discussion on the number of spaces. Mr. Markman indicated the areas where he will be adding stone. Ms. Pellegrini stated that there are eleven 10' x 40' parking spaces, fourteen 10' x 20' parking spaces, 40 mobile home trailers in the back area, and four parking spaces for personal use. Mr. Marmero stated the conditions of approval for the use variance. Berming of the mobile storage area, no further construction, storage is limited to what is shown on Exhibit A-1 which includes four personal parking spaces by the pole barn, fourteen 10 x 20 parking spaces, eleven 10 x 40 parking spaces, a maximum of 40 mobile home trailers to be stored, a letter of no interest or letter of approval from the County, and parking bumpers are to be provided. Motion by Mr. Carney, seconded by Mr. Kozak to grant the use variance with the conditions stated. Roll call vote: Ayes – Mr. Carney, Mr. Kozak, Mr. Manfredi, Ms. Capate, Mr. Salvadori. Nays – Mr. Fritz, Mr. Mercado. 5 ayes, 2 nays, motion passed.

Mr. Marmero stated that the Board should vote on the site plan waiver application with all conditions as stated. If approved the applicant will not be back before the Board; if denied he will have to return for site plan approval. Motion by Mr. Carney, seconded by Ms. Capate to grant site plan waiver approval subject to the same conditions previously stated. Roll call vote: Ayes – Mr. Carney, Ms. Capate, Mr. Kozak, Mr. Manfredi, Mr. Salvadori. Nays – Mr. Fritz, Mr. Mercado. 5 ayes, 2 nays, motion passed.

3. #16-01 – Robert Sforza – Use Variance

Present – Robert Sforza, applicant, John Kosylo, applicant's attorney.

Member's packets contained: 1. A copy of the applicant's use variance application, survey, and a copy of the applicant's zoning permit for his 50 x 75 metal building. 2. Letter dated April 20, 2016 prepared by William Crump. 3. Report dated June 16, 2016 prepared by Rosemary Flaherty, Zoning Officer. 4. Report dated June 7, 2016 prepared by Pam Pellegrini.

Mr. Kosylo introduced himself as the applicant's attorney. He stated that he did not believe the applicant needed to be before the Board for a use variance.

Public Hearings: (continued)

3. #16-01 – Robert Sforza (continued)

Mr. Salvadori asked if the application can be deemed complete. Mrs. Farrell replied that the applicant is requesting a waiver from providing the Certificate of Filing at this time until he knows if the use variance is being approved. Motion by Mr. Carney, seconded by Mr. Fritz to grant the waiver and deem application #16-01 complete. Roll call vote: Ayes – Mr. Carney, Mr. Fritz, Mr. Kozak, Mr. Manfredi, Mr. Mercado, Ms. Capate, Mr. Salvadori. Nays – Zero. Abstentions – Zero.

Mr. Sforza stated that he purchased the property in June of 2004 and has lived there continually since that time. He stated that he is involved in drag racing which is why he built the metal building so he can work on his cars. He did receive a permit for the pole barn. He currently has a couple of his vehicles and some machinery stored in the pole barn. There is a paint booth within the pole barn but he only uses it for a prep station. He acquired the paint booth from a school because it was inoperable as it doesn't have an air/heat system inside. He did paint a few things in there at one time but now he uses it as a clean room for assembling motors and when it's not being used he stores his show car inside so it doesn't get dusty. Mr. Sforza testified that he is not operating any type of business out of this building or on the property. He does allow some of his friends to use the pole barn to work on their cars but he doesn't charge them. It's been many years since he painted anything in the paint booth.

Mr. Salvadori asked why the paint booth doesn't work. Mr. Sforza replied that the air/heat system was broken which is why the technical school was getting rid of it and he purchased with the intentions of using it as a prep room. Essentially it's a building within a building. Mr. Kosylo stated that Mr. Sforza received a violation notice from Ms. Flaherty's office which states that he is operating an illegal auto body and repair business including a paint booth at his property. Mr. Sforza testified that he is not operating a business nor does he use the paint booth as a paint booth. Mr. Kosylo stated that on that issue he does not believe they are in any violation. The Zoning Officer states that the paint booth for Mr. Sforza's personal use is not a permitted use on the property which is why he filed the application. Mr. Salvadori commented that the paint booth will have to have some type of fire protection. Mr. Sforza stated he thinks that's only if there is a heating system which there is not. Mr. Kosylo replied that Mr. Sforza testified he hasn't painted anything in the paint booth for many years and that he has only been using it for a prep station for his vehicles. He will not paint in that room. Ms. Capate asked if there will ever be painting done again. Mr. Sforza stated that he really does not need it for painting. Mr. Kosylo stated that he will not say there wouldn't be any type of painting inside as Mr. Sforza already testified that he stained and painted wood for his home inside that room in the past but that's something you can do in your own garage. But the whole idea of a "paint booth" is not used or needed.

Public Hearings: (continued)

3. #16-01 – Robert Sforza (continued)

Mr. Marmero stated that the paint booth will be inoperable with the exception of doing the type of painting you can do in a regular garage. Mr. Sforza stated that the paint booth is essentially inoperable since it doesn't have heat inside. Mr. Fritz asked what is meant by the term prep room cause he has worked on engines and he didn't have a prep room. Mr. Sforza stated that it means it's similar to a surgical room, it's a clean, dirt, and dust free room. Mr. Sforza stated that when you're working on an 800 horsepower motor any little bit of dirt is your worst enemy. Mr. Fritz asked why it is everyone thinks this is being used as a paint booth. Mr. Sforza stated because it's a paint booth but it's never been used that way since he purchased it because it was inoperable as a "paint booth". Mr. Manfredi commented that he purchased a paint booth when he was working to put fire hydrants together.

Mr. Kozak asked Ms. Flaherty why she sent the violation. Ms. Flaherty replied that a resident complained about paint fumes and that they saw people doing body work on the site. She stated there are also multiple pod bodies, the backs of the trucks, being stored behind the pole barn. She thought the applicant was supposed to amend the application to include those. Mr. Kosylo stated that they have submitted an amendment. Mr. Sforza stated there are four storage pods behind the building and noted their sizes. One of them is storing a forklift, a lawn mower, and gardening equipment. One of them is storing a farm tractor and two mowers; another one has motor parts, and the last one has car parts and some household items. Mr. Kosylo stated that two storage structures are permitted on the site by the town's ordinance and a total of three out buildings are permitted which would include the pole barn and two of the storage pods; so they are asking for relief for the other two storage pods. The storage pods are not visible from the road or any other property.

Ms. Flaherty reviewed her report for the Board. She stated that if the Board does approve the application she would like the applicant to submit an application to the EPA or NJDEP for the paint booth to make sure it's inspected annually as well as the applicant receiving the Pinelands Certificate of Filing. She also wanted a letter or application from the County with regard to the installation of sidewalk. She did not get an opportunity to see what was inside the storage pods. Mr. Kosylo stated that Mr. Sforza will open them for her inspection. He also stated that he did not see the need for the environmental application or approval because the paint booth is not being used as a paint booth and he did not understand conditions being placed on the applicant now with regard to the use of the pole barn when he received a permit back in 2004 and no conditions such as the installation of sidewalks were imposed at that time. Ms. Flaherty corrected her statement with regard to the applicant needing a letter or application to the County as Route 322 is a State road not a County road. She stated she thinks a painting operation is taking place on the property and wants the Board to require an inspection by the State.

Public Hearings: (continued)

3. #16-01 – Robert Sforza (continued)

Ms. Capate commented that she thought the applicant testified that he is not using the paint booth as a paint booth and hasn't done any painting in there in many years. Mr. Kosylo agreed and stated that it is not and will not be used as a paint booth. Ms. Flaherty stated that the applicant should still be required to have an inspection by the State for the paint booth because there is no way to regulate what is going on inside. Ms. Capate asked if someone can actually do an inspection to determine the structure is inoperable as a paint booth. Mr. Kozak asked Ms. Flaherty if she thought the applicant is operating a business at his property. Ms. Flaherty replied that she does think he is operating a business. Mr. Sforza asked her why she thinks he is running a business. She replied because of the multiple storage pods and because the garage is twice the size of the house. In addition there was a complaint received that the neighbor smelled paint fumes and observed people doing body work.

Mr. Sforza stated that he has not been in the pole barn much at all because in 2007 he contracted lime disease. In addition to that he was in an automobile accident and as a result of that he has limited mobility. Ms. Flaherty asked why he is keeping the paint booth. He stated it's for his motors. She commented that he is using it to allow his friends to come over and paint. Mr. Sforza stated that they do not come over to paint their vehicles. Mr. Kosylo stated that the applicant has testified several times that he does not use the paint booth as a paint booth. Ms. Flaherty asked if he received a permit for putting the paint booth into the pole barn. Mr. Kosylo asked why he would need the permit since he received one for the pole barn and paint booth is inside the pole barn. There was discussion on whether there was electricity and Mr. Sforza testified that the electricity is not in the paint booth and the lights shine into the paint booth from outside the room. Ms. Flaherty stated she will have a discussion with the Fire Marshall on the subject.

Mr. Mercado asked if Mr. Sforza builds motors for other people. Mr. Sforza stated that he only builds motors for himself. Mr. Salvadori asked Mr. Sforza why he just doesn't get rid of the paint booth. Mr. Sforza stated that he may have to if he is going to be required to get all the approvals for a paint booth that he isn't using as a paint booth. There was further discussion on the matter with Ms. Flaherty reiterating that she wants the applicant to have a State inspection, a Township inspection, and she wants a letter from NJDOT with regard to the sidewalks. Mr. Kosylo stated that the permit for the pole barn issued in 2004 states that he cannot use the pole barn for commercial use and he hasn't violated that condition.

Motion passed to open the hearing to the public. There being none, motion passed to close the meeting to the public.

Public Hearings: (continued)

3. #16-01 – Robert Sforza (continued)

Mr. Marmero reviewed the request by the applicant for a use variance to continue the use of the paint booth but for personal use only and not as a paint booth. He is also seeking a variance for the storage pods. The variances will be conditioned upon the paint booth being inoperable, the applicant obtaining the necessary permits by the EPA or NJDEP if warranted by the Fire Marshall, obtaining a letter from the NJDOT concerning sidewalk, and a Certificate of Filing from the Pinelands. Mr. Kosylo stated he didn't believe the applicant needed the variance for the paint booth and he would like an interpretation on that issue. Mr. Marmero stated that the applicant did not apply for an interpretation. Mrs. Farrell stated that the use variance was still needed for the storage pods. Ms. Flaherty stated that if the applicant is going to appeal then she would like him to submit an application for an appeal so she can prepare.

Mr. Kosylo commented that he is not comfortable proceeding with the use variance as admission that Mr. Sforza has been in violation for the last twelve years for the paint booth. Mr. Marmero replied that the applicant can table the use variance application and apply for an interpretation if he chooses. The Board took a brief recess while Mr. Kosylo conferred with his client. After the recess Mr. Kosylo stated that his client wanted to proceed with the use variance. Motion by Ms. Capate, seconded by Mr. Carney to grant the use variance with all the condition previously stated. Roll call vote: Ayes – Ms. Capate, Mr. Carney, Mr. Manfredi, Mr. Salvadori. Nays – Mr. Fritz, Mr. Kozak, Mr. Mercado. 4 ayes, 3 nays, motion failed.

Discussion for Board Action:

1. #1713 – Hovbros Stirling Glen, LLC – Basin Modification

Present – Bill Ralston, applicant's engineer, Paul Witthohn, applicant's engineer, Scott Bordic, JS Hovnanian, Colin Marshall, JS Hovnanian, Mitchell Grayson, applicant's attorney.

Member's packets contained: 1. Report dated June 3, 2016 prepared by Martin Sander. 2. A copy of the basin modification plan.

Mr. Grayson explained that the applicant was before the Board to explain the basin modification. The basin as approved was intended to be a dry basin; however after it was built water started to perk up at the upper end of the basin. The engineer thought it was necessary to come back to the Board to explain the issue. Mr. Ralston, Mr. Witthohn, Mr. Bordic, and Mr. Marshall were sworn in by Mr. Marmero.

Discussion for Board Action: (continued)

1. #1713 – Hovbros Stirling Glen (continued)

Mr. Witthohn displayed the basin modification plan for the Board. He indicated the portion of the basin that will be receiving the modification. No other portion of the basin will change. There will be an additional discharge pipe. The original design was for a two section infiltration basin; an upper basin and a lower basin. The modification is to the lower basin. There will not be any changes to the pipes or the size of the basin. The changes include the addition of two safety ledges on the steep sides of the basin, the additional outlet pipe at the lower elevation, the slight deepening of the basin bottom, the addition of an aerator, and the fencing around the basin which is proposed to be a four foot high vinyl post and rail fence with black wire mesh. The drainage calculations satisfy the stormwater requirements for water quantity and quality. The Township Engineer required that the 100 year surface elevation be lowered from the original design which has been done. Mr. Witthohn indicated they will address the discrepancies noted in Mr. Sander's report.

Ms. Capate stated that the development she lives in has major issues with the basin and it's put a severe burden on the homeowner's association. She suggested that the builder bond for at least five years for the basin. Mr. Ralston stated that there is a maintenance plan in place that has been reviewed by the Board's engineer. The developer will be maintaining the basin during the entire course of the job. Ms. Capate commented that she was suggesting a five year bond after the developer turns the basin over to the homeowner's association.

Mr. Marmero stated that the applicant already has all their approvals and they are only before the Board for the basin modification. The Board will be voting on the changes to the basin explained by Mr. Witthohn. Mr. Sander stated it should be conditioned upon the applicant submitting the basin modification plans and a revised stormwater management report. The applicant agreed to those conditions. Ms. Capate made a motion to approve with the added condition that the builder provide a five year bond for the basin after it is turned over to the homeowner's association. There was further discussion on the matter with the developer stating that they would bond for the two years after they turn it over but they shouldn't be responsible for the basin after that since they do not have control over the maintenance or on how the association will maintain the basin. Mr. Grayson asked who will determine the value of the bond. Mrs. Farrell replied that the Township engineer will probably determine the value of the bond. Ms. Capate's motion was seconded by Mr. Manfredi. Mr. Sander commented that the developer will have a five year bond on the basin and a two year bond on everything else. Roll call vote: Ayes – Ms. Capate, Mr. Manfredi, Mr. Carney, Mr. Fritz, Mr. Kozak, Mr. Mercado, Mr. Salvadori. Nays – Zero. Abstentions – Zero.

Public Portion:

Motion passed to open the meeting to the public. There being none, motion passed to close the meeting to the public.

Reports:

1. Mrs. Farrell reminded the Board that the next meeting is scheduled for July 12, 2016.
2. Mr. Kozak stated that since the Board is getting so many ground mount solar applications, they should have a discussion in the future on the matter and perhaps Council could revisit the ordinance. Mr. Marmero replied that he does do an annual report to the Planning Board and Council and will suggest they look at that ordinance in his report.

Approval of Minutes:

1. 4/19/16 regular meeting.
2. 5/03/16 regular meeting.
3. 5/17/16 regular meeting.

Motion by Ms. Capate, seconded by Mr. Carney to approve the minutes from the meetings listed above. Voice vote; all ayes, motion passed.

Adjournment:

The meeting was adjourned at 9:50 p.m.

These minutes are an extract from the meeting that was held on the above date and are not a verbatim account or to be construed as an official transcript of the proceedings. The tape of the meeting is stored in the office of the Board.

Ninette Orbaczewski
Clerk Transcriber