



**BOROUGH OF FOLSOM
PLANNING/ZONING
BOARD OF ADJUSTMENTS
MINUTES
July 17, 2024**

CALL MEETING TO ORDER: 6:30 PM

SALUTE TO THE FLAG

CERTIFICATION: Adequate notice of this meeting has been given in accordance with the Open Public Meeting Act pursuant to Public Law 1975, Chapter 231. Said notice has been advertised in the Hammonton Gazette and is posted on the bulletin board showing the time and place for the meeting.

ROLL CALL: Chairwoman Kristin-Gummoe Lubrano, Vice Chairman Michael Veneziani, Mayor Glenn Smith, Dave Cappuccio, Michael Sutts, Jim Hoffman, Leslie Roberson, Catherine DeYoung, Chris Hadulilas

Members Absent: John Thomas

Others Present: Solicitor: Carol N. Goloff, Esquire; Goloff Law
Board Engineer: Jen Heller P.P., A.I.C.P. of Polistina & Associates
Board Secretary: Susan Carroll

APPROVAL OF MINUTES:

A motion was made by Mr. Smith and seconded by Mr. Cappuccio to approve the minutes of April 17, 2024. There was a roll call vote with seven ayes, and two abstentions.

Kristin Gummoe-Lubrano	Yes
Mike Veneziani	Yes
Glenn Smith	Yes
Dave Cappuccio	Yes
Michael Sutts	Abstain
Jim Hoffman	Abstain
Leslie Roberson	Yes
Catherine DeYoung	Yes
Chris Hadulias	Yes

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APPLICATION 02-PB-2024: Donna Joseph/Liberty Square-Leafy D’Lites tabled to August 21, 2024 it was noted there was no further need to advertise. Anyone from the public in attendance for this Application is made aware through this announcement the Application will be heard August 21, 2024 at 6:30 pm.

APPLICATION 03-PB-2024: Ferris Associates seeking to renew a Resource Extraction Permit for the Mining Operation located in the vicinity of Backline Rd., Mays Landing Rd., 13th Street and 4th Rd., Block 1101 – Lots 3, 4, & 5; Block 2004 – Lots 3 & 5, and Block 2201 – Lot 4; and is located in the Forest 20 Zoning District.

Tom Darcy, Esquire was in attendance to represent the Applicant Ferris Associates LLC who was seeking renewal of a resource extraction permit which gets renewed by the Borough of Folsom Planning Board once every two years. The last renewal date was August 15, 2022 and runs until August 15, 2024.

Mr. Darcy reviewed the existing documentation. Included with the Application was:

- 1) The last Resolution # 2022-6 Approved by the Board in 2022 and extended the Resource Extraction Permit to August 15, 2024.
- 2) The Pinelands Certificate of Filing dated June 24, 2024 for the period of August 15, 2024 through August 15, 2026.
- 3) A Notice of Automatic Extension from PNC Bank / Letter of Credit for \$124,344.00. Part of the requirement for the resource Extraction Facility in the Borough of Folsom was that a Performance Guarantee had to be posted with the City Clerk to cover the cost of the reclamation once the resource extraction facility becomes completely finished. The Notice of Automatic Extension from PNC Bank was the same Letter of Credit that gets renewed every year for the facility. The Clerk and the Pinelands Commission were both notified on March 15, 2024 the Letter of Credit was extended to July 17, 2025. PNC Bank will continue to provide notification every year to the Clerk and Pinelands Commission that it is automatically being renewed. Ferris can’t just not renew it. It was an automatic renewal and unless PNC Bank notifies both the Pinelands and the Clerk that Ferris is suspending it, it would be automatically renewed.
- 3) The Cape Atlantic Soil Conservation District Certification dated June 5, 2024 for a one-year Certification.

Note: Solicitor Goloff joined the meeting at 6:35 pm.

- 4) A Mine Registration Certificate # 004525. It expires March 31, 2025.
- 5) An Owners Acknowledgement of Responsibility for Site Operations. Ferris Associates Manager Linda Bloomfield in accordance with the Borough Code provided an Affidavit saying that regardless of who is operating the site, Ferris Associates is responsible. It was updated on July 17, 2024.
- 6) A Street Vacation Ordinance # 08-2022 Adopted on September 13, 2022 from the Governing

Body. It was for the 2 paper streets that ran through the site at 4th Road and 13th Street. It was recommended by the Board on a couple of occasions to apply to the Governing Body to have it vacated. It was done in September 2022.

Mr. Darcy introduced three potential witnesses. Chairwoman Gummoe Lubrano swore in: Bruce McKenna of Monarch Surveying and Engineering, New Jersey, Richard Bloomfield the Operator of the pit and Linda Bloomfield.

Mr. Darcy called Mr. McKenna to give the Board Members a brief overview of what has been going on at the site in the past couple of years and other site conditions. This included a review Chapter 200-55B of the Borough Ordinances a list of Resource Extraction Standards that the Applicant had to meet.

Mr. McKenna gave his credentials. He was a Professional Engineer, Professional Land Surveyor, and Professional Planner in the State of New Jersey, Professional Engineer and Professional Surveyor in the Commonwealth of Pennsylvania, Professional Surveyor in the State of Delaware. He testified before the Planning Board multiple times. There were no questions from the Board and he was accepted as Professional Planner, and Engineer.

Mr. McKenna gave an overview of the site. It was a 40 acre site. Ferris Associates has been doing resource extraction on about 19.2 acres of the area. A grading plan, resource extraction plan, and restoration plan were submitted. Mining was done in the primary area along the railroad tracks and re-vegetating the northern end of the property. About five years ago there was coordination to re-plant and restore a lot of the area that was previously mined about 20 years ago. The trees and vegetation have grown substantially. The trees were put in as seedlings toward the eastern and northern ends and some parts of the north western parts of the property and were now 15 to 20 feet tall. One area toward the northwest is being cleared and will be starting to mine that area. A lot of material is being utilized in the main part of the pit and trying to re-grade it. The entrance way comes in off of 4th Road crosses the railroad track into the site. Truck traffic is being maintained in a uniform fashion. The site is doing very well and restoration activities were ongoing.

Mr. Darcy reviewed Chapter 200-55B Resource Extraction Standards and Mr. McKenna confirmed all the requirements of the Chapter were met.

There were two conditions the Pinelands required to protect:

- 1.) Resource Extraction activities shall be located at least 300 feet from any wetlands
- 2.) No resource extraction activity shall occur lower than elevation of 70 feet.

Mr. McKenna explained there was a wetlands pocket towards the southwest where the 300-foot buffer has been maintained from the elongated wetlands.

The elevation was approximately 80-85 prior to excavation. Mr. Darcy explained if it was 100 (prior) it can't go 65 deep. The elevation cannot go below elevation 70. The grading plan showed elevation 70 and has been diligent trying to maintain it so it doesn't go below that

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elevation. The depth was 65 feet they were going down no more than 30 or 35 feet which was significantly less.

Mr. Darcy reviewed with Mr. McKenna the Resource Extraction Standards in Ordinance# 200-55B. (1) thru (11) to confirmed the Standards at the site were being met.

Mr. Darcy commented on Ordinance# 200-55C. Restoration. He explained the only time reclamation occurs is when the site is completely mined. The Applicant will come back when site is completely mined and provide proof the restoration standards in Section C. will be met.

There were some Conditions in the previous Resolution and will continue to comply with those Conditions:

- Restoration outside the mining operation that has been ongoing and inspected by the Board Engineer twice a year.
- A forestry plan which was presented during one of the previous renewals.
- An Operations and Maintenance Plan for all truck traffic had to utilize 4th Road for access. There will be street sweeping program taking place twice a month or more if necessary, depending upon how much activity there is at the site.
We would agree with that should also be re-incorporated into any approval.
- All access points had to be blocked and continuously monitored for evidence of trespassers. The Applicant was trying to keep ATV's and motor bikes out of the site.
- The hours operation. Previously they asked for hours of operation between 6:30 am and 4:30 pm. It was accepted by the Board would allow the hours of operation to start at 6:30, but the only operation would be meeting on site. We would not be starting up machines or loading trucks in and out. That type of equipment operation will begin at 7:00.
- Twice annual – Fall and Spring Inspections by the Board Engineer would be re-affirmed. It was not part of the Code, but was agreed to previously to make sure the site stays in compliance.

These were in the previous Resolution and confirm we would have that in there.

Board Members had questions. Mr. Veneziani inquired about the statement that 4th Road was swept twice a month. Mr. Darcy explained it was on a as needed basis. If there was no mining operation for 6 months there will not be a need to clean the street. When mining is in progress, it would be at least twice a month and more if necessary.

Ms. Roberson questioned the depth of 65 feet. She asked what the natural grade was that they could go below. Mr. McKenna explained they can't go below 70 (feet). There was a property chain from the north to the south we're maintaining existing grade at the mining limits and then not going below elevation 70 at the bottom of the pit.

There were no other questions from the Board

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Jen Heller PE, PE of Polistina Associates gave the Engineers Report. The street vacation was done after many years. An inspection was preformed in June. She rode around the pit and took a look. The trees that were planted years ago have grown tremendously. It was amazing to see the difference. All the areas that were questionable where trespassers were entering the pit in were all blocked off. Richard (Bloomfield) was at the site every day. There were issues years ago with trespassers, but there are cameras on site now. The Borough doesn't have complaints from the residents on 4th Road because the trucks aren't coming in and out. The road is kept in good condition. She was happy with the condition of the pit as it was today. It was recommended to deem the Application complete and granting the Approval for another renewal for two years.

The meeting was opened to the public. Seeing none present from the public, the public portion was closed.

Solicitor Goloff summarized the Motion. The Application was for another two year Approval for the mining operation as described by the Applicants expert and Mr. Darcey and reviewed in writing in detail by the Borough's Engineer is granted. Then there is discussion about why you would or would not vote for it and then role call.

A Motion was made by Ms. DeYoung and seconded by Ms. Roberson to Approve the Renewal of the Resource Extraction Permit for the mining operation located at Backline Rd., Mays Landing Rd., 13th Street, and 4th Road. Block 1001 – Lots 3, 4, 5; Block 1004 – Lots 3 & 5; Block 2201 – Lot 4 located in the Forest 20 Zoning District as noted by Mr. Darcey and the expert Mr. McKenna.

Discussion was opened by Chairwoman Gummoe-Lubrano. She believed the Renewal should be Approved based upon the review of the Engineer Report; Mr. Darcey and Mr. McKenna's extensive presentation going through Ordinances 1 thru 11 which was noted in the Engineers Report; as well as commenting on each general review comment including her one concern which was the hours of operations. She did not see any reason to not Approve the Renewal considering the fact that Ferris has been in Folsom this long and has maintained everything up to par and every request presented by the Board. Mr. Smith agreed.

Mr. Cappuccio noted, as long as the Engineer was fine with everything going on in there (the pit) and there were no problems. Ms. Heller commented it was way better than it was years ago. It was not good for years. In the past, there were public at these meetings speaking out against the permit renewal. There were issues with trespassers and issues with over clearing and over excavating which has all been remediated and the site was in very good condition.

Ms. DeYoung commented about keeping all the ATV's and motorcycles out. They were really tearing up that whole area. Ms. Heller added that it was a lot better. It was a problem for a while.

There was no other commentary or discussion on the Application. Seeing and hearing none the Chairwoman called for a vote. A roll call vote was taken with all ayes.

Kristin Gummoe-Lubrano	Yes	For the reasons set forth on the record
Mike Veneziani	Yes	
Glenn Smith	Yes	
Dave Cappuccio	Yes	
Michael Sutts	Yes	
Jim Hoffman	Yes	
Leslie Roberson	Yes	
Catherine DeYoung	Yes	
Chris Hadulias	Yes	

APPLICATION 04-PB-2024: Lawrence Petrone Jr. seeking Variances to construct a detached garage at 1307 Memory Lane, Block 102 – Lots 16, 17, & 18 and is located in the VR Zoning District.

Larry Petrone with his wife Maxine Petrone who lived at 1307 Memory Lane and were 29-year residents. Chairwoman Gummoe Lubrano confirmed with the Board Secretary for completeness. The Board Secretary confirmed the file was complete and advertising was done.

The Chairwoman swore in Larry Petrone. Mr. Petrone was seeking Variances to build a garage He needed a front yard setback of 68 feet 2 inches where 75 feet were required to align the garage with his house. He needed a height Variance for an Accessory Structure of 28 feet where 15 feet was maximum. The vehicle he purchased last year was 10 foot and he needed a 12-foot overhead door for a 2-foot clearance and with the pitch of the roof he ended up with 28 feet. He needed a Variance for square footage of an Accessory Structure of 1,035 square feet where 900 square feet was the maximum.

Mr. Petrone explained that he purchased his property in 1995 and built his house. The garage was to be constructed adjacent to his house. In 2001 when it came to do the garage, he was granted a Zoning Request and a Building Permit. He completed the foundation and slab, but the Zoning was changed and the setbacks changed. That was as far as he took it because that was as far as he could go, but he always intended to build it. He came in a few months ago to get the permit to actually put the garage structure. John (the Zoning Officer) told him he needed to get a new Zoning Permit, but some of the setback issues couldn't be fixed because the foundation has been like that for 23 years now.

Mr. Petrone also requested Waivers from the Checklist for the contour grade markings because there will be no grade changes and the foundation was there; and the size and species of the existing tree count because there will be no trees removed.

The building height was clarified. The Engineers Report noted the proposed the Accessory building height as 22 feet, but the Applicant testified the proposed height as 28 feet. Ms. Heller

clarified. The building height was the mean of eave and the top of the top of the roof. Mr. Petrone added that he was measuring from the ridge to the top to the slab. He was at 16 feet on the walls and 12 feet on the slopes. He was at 28 feet to the highest peak, but it was technically 22 feet based on the definition of building height.

COMPLETENESS REPORT

The Contour Grade Markings and the Size and Species of the Existing Tree Count were the only two items missing from the Application, but it made sense to request the Waivers and Mr. Petrone has done that. It was recommended that the application be deemed complete because there was sufficient information for the Board to make a decision. A summary of the Variances was given.

The consolidation of the three lots were questioned. Mr. Petrone was willing to consolidate Lots 16 & 17. He explained that when he purchased the three lots in 1995, he received three tax bills one for each lot. Unbeknown to him the town took all those lots and lumped them together on one tax bill. It became an issue in 2018 when the town went through a Revaluation. They valued his property as a (conforming) two-acre lot. His property was valued using comparisons from 14th St. & Backline Rd., but those properties had true two acre lots. They could put their house in the middle of two acres. Mr. Petrone had to put his house in the middle of a half-acre lot and the other lots just came along with it. Lot 17 was .58 acre and Lot 18 was also .58 acre.

Solicitor Goloff explained. In New Jersey it doesn't matter what your tax bill is. It doesn't matter if it is three tax bills or one tax bill. In New Jersey if your lots are undersized, they are all one lot under the Doctrine of Merger. They might be designated on the tax map as three different lots, but they are one parcel for Zoning purposes. It doesn't matter how you are taxed; this is one parcel. It was determined that Mr. Petrone was not building an Accessory building on an empty lot. He was advised that if he consolidated the lots, it cleaned everything up and there is no mistake if Lot 18 was sold off.

Solicitor Goloff confirmed the three lots were all on one deed. Mr. Petrone did not have to do a Deed of Consolidation because they were already on one deed. They were consolidated by law. If he were to do anything with the lots he would need to come back to the board. He would have to do a minor subdivision if he were going to give any land to an adjacent property.

The garage would not be used as a dwelling for living quarters. Mr. Petrone will have electric in the garage for lights, but nothing else.

The application was opened to the Board for any questions.

Ms. DeYoung questioned whether lots 16, 17, & 18 were on one parcel. Ms. Heller explained that it is listed as 16, 17, & 18 on the tax records, but for the purpose of Zoning 16, 17, & 18 is looked at as a whole parcel all together. The whole 1.69 acres, because it is one owner and the lots were all undersized and contiguous lots. Mr. Petrone was not sure if there were deed for each lot separately. Ms. Heller thought probably not and that the one deed described all three

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lots. She suggested to file a Deed of Consolidation and the Filing Fee at the County Clerk's Office. Then it will be one lot of Record and no confusion later.

The dimensions of the building were clarified. The plan showed 34 ½ x 30, but the testimony was 30 x 30. Mr. Petrone explained the slab was 34 feet 6 inches front to back and 30-foot side to side. He did the extra 4 ½ feet to connect to the driveway. The dimension of the building will be 34½ x 30 or 1,038 square feet.

Mr. Sutts asked what the distance was between the existing shed and the new building. It was six feet. He was concerned about a fire emergency reason. The Ordinance was checked. The minimum distance of any accessory building from the adjacent building shall be 10 feet. Detached accessory building shall be located so that all the yard requirements are met by principal use. An additional Variance was needed. Another Variance was added to allow a distance of six feet where ten feet is required between the two accessory buildings. Section 200-21D.

There were no other questions from the Board.

The meeting was open to the public. Seeing and hearing none the public portion was closed.

Solicitor summarized the Motion to grant the Application for the Variance for location, height, area, and distance between the accessory building (garage) and the shed for the reasons set forth by the Applicant under oath and as supported by the Engineer Report and oral testimony.

A Motion was made by Mr. Smith and seconded by Mr. Cappuccio to grant the Application for Variances for the location, height, area, and distance between the proposed garage and shed for the reasons set forth on the record by the Applicant who was under oath as well as the Engineers Report.

Discussion on the Motion was opened by Chairwoman Gummo-Lubrano. In reviewing the Application and hearing Mr. Petrone's testimony as well as Ms. Hellers Report it was clear that there was no detriment. The slab was poured twenty some years ago and it was already there with the plans. It was not going in front of the house any further than anyone else's. It will look uniform and allow for a clean appearance and storage. There was nothing that would be a denial for the Motion. For those reasons it should be Approved.

There was no other discussion. There was a roll call vote with ayes all, nays none.

Kristin Gummo-Lubrano	Yes	For the reasons set forth on the record.
Mike Veneziani	Yes	
Glenn Smith	Yes	
Dave Cappuccio	Yes	
Michael Sutts	Yes	

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Jim Hoffman	Yes	
Leslie Roberson	Yes	
Catherine DeYoung	Yes	For the reasons stated on the record.
Chris Hadulias	Yes	

The meeting was opened to the public for public comment. Seeing and hearing none the public portion was closed

OTHER BUSINESS: Ms. Heller announced that today might be her last meeting with the Board. She picked up another meeting during the month. She was still working with Polistina & Associates. A member of the firm left. Things were shifted around and Jen picked up an extra meeting. She was out 12 nights per month on a normal month. CJ Kanzig from her office represented the firm (Polistina & Associates) with (Folsom) Governing Body. He attended the Council meetings. CJ will step in for Jen at the Planning Board meetings, but she may attend the cannabis applications with CJ. CJ was at the meeting to meet the Board Members.

OTHER BUSINESS: Mr. Sutts questioned having a timer. Solicitor Goloff explained the law is that as a Board we have a duty to keep decorum and have no duties to be held up in a meeting while multiple people say the same thing over and over again. The case law was clear about giving people a reasonable opportunity to make their point. They can be cut off if they are repeating what their neighbor said, holding up the meeting, or being belligerent.

There was no other Business for the Board.

NEXT SCHEDULED MEETING: August 21, 2024 at 6:30 pm

A Motion was made by Mr. Cappuccio and seconded by Mr. Veneziani to adjourned the meeting. All were in favor

Meeting Adjourned at 7:37 pm

Respectfully Submitted,

Susan Carroll
Board Secretary