

The Regular Meeting was called to order by Vice Chairman List at 7:00pm

Pledge of Allegiance and Moment of Silence were observed by Vice Chairman List

The Open Public notice was read by Suzanna O'Hagan, Board Secretary

Roll Call was taken by the Board Secretary

Board Members: Ms. Jones, Present; Ms. Liciaga, Present; Mr. Kramer, Absent; Mr. Killen, Present; Mr. Kiernan, Present; Mr. Green, Absent; Mr. Bailey, Present; Vice Chairman List, Present; Chairman Francescone, Present at 7:08.

Board Professionals: Mr. Petrongolo, Planner, Present; Mr. Angelastro, Traffic Engineer, Present; Mr. Long, Engineer, Present; Mr. McVey, Fire Marshal, Present; Ms. O'Hagan, Board Secretary, Present; Mr. Crook, Board Solicitor, Present; Mr. Armano, Conflict Board Solicitor Present to represent the Board for ZB#18-D-03 only.

Announcements and Review of Boards Procedures by Vice Chairman List: The application for ACE Landscaping and Lawn Care Service, ZB#15-D-10, 344 Texas Ave, is carried to the May 2, 2018 Zoning Board meeting.

Memorialize Resolutions:

1. SRMG, ZB#17-D-14, Resolution R-2018-ZB3, 907 Pleasant Valley Avenue, Chairman Francescone asked for a motion to memorialize the Resolution to approve the Use Variance, Vice Chair List moved the motion and Board member Mr. Bailey second. All present voted affirmatively, except Board members Mr. Kiernan and Mr. Killen who abstained, and the motion was carried.
2. Angelo Eye Associated, ZB#18-D-01, 3820 Church Road, Chairman Francescone asked for a motion to memorialize Resolution R-2018-ZB4, Vice Chair List moved the motion and Board member Ms. Liciaga second. All present voted affirmatively, except Board members Mr. Kiernan and Mr. Killen who abstained, and the motion was carried.
3. Davis Raceway Extension of Approval, ZB#15-D-14, 503 Fellowship Road, Chairman Francescone asked for a motion to memorialize Resolution R-2018-ZB5, Vice Chair List moved the motion and Board member Mr. Bailey second. All present voted affirmatively, except Board members Mr. Kiernan and Mr. Killen who abstained, and the motion was carried.
4. Annual Report of the Zoning Board of Adjustments Applications, Chairman Francescone asked for a motion to memorialize Resolution R-2018-ZB6, Vice Chair List moved the motion and Board member Mr. Killen second. All present voted affirmatively, the motion was carried.

Minutes: Chairman Francescone asked for a motion to adopt the Regular meeting minutes of 02/7/2018, Vice Chairman List moved the motion Mr. Bailey second, all present voted affirmatively and the motion was carried.

Swearing in of the Professionals: Mr. Petrongolo, Planner; Mr. Long, Engineer and Mr. Angelastro, Traffic Engineer; Mr. McVey, Fire Marshal, were sworn in by the Board Solicitor Mr. Crook.

Petitions before the Board:

1. HENRIQUE AND LEILA DOS SANTOS, ZB#18-C-04, 312 Moonseed Place, Block 1602.02 Lot 28, R-4 zone. The Bulk variance is being sought from section 154-131.4(D) to allow a 9.04' rear yard setback where 20' is required. The secretary read the application.

Mr. DosSantos, applicant, Craig Sacreda, applicant's builder and Karl Biegert of 426 Elderberry Ct, applicant's neighbor, were sworn in by the Board Solicitor. Mr. Sacreda testified that the 12' x 12' gable roof sunroom addition is necessary to allow his client to enjoy his property out of the sun and away from mosquito's, further the setback requirement leaves only 1'2" of allowable rear yard building space. Mr. Sacreda built a similar sunroom on the next door neighbor's home and the applicant's sunroom would not be larger, the neighbor on the other side of the applicant also has a similar room addition. Carl Biegert testified that he is the applicant's rear yard neighbor and has no objections. Mr. Biegert asked for clarity on the setback requirements and Mr. Crook explained the ordinance. The Boards professionals had no comment. Chairman Francescone opened the meeting to the public for comment or questions, seeing none, closed the public portion. Mr. Crook reviewed the application. Chairman Francescone asked for a motion to approve Bulk variance ZB#18-C-04 with the condition that the applicant will submit the Home Owners Association Approval letter before receiving the Memo of Approval allowing building permits to be issued, Mr. Kiernan moved the Motion, Vice Chairman List second, Roll Call Vote; Mr. Kiernan, agree; Vice Chair List, agree; Ms. Jones, agree; Ms. Liciaga, agree; Mr. Killen, agree; Mr. Bailey, agree; Chairman List, agree; motion carried approved.

3. THE FALLS GROUP, LLC, ZB#18-D-03, 3320 Route 38, Block 304 Lot 1.02 I-zone. The Use variance is being sought from section 154-77M of the zoning ordinance to enable the applicant to conduct firework displays. Mr. John Armano, Zoning Board Conflict Attorney will represent the Board for this application. Randall Lahn, Managing member of The Falls Group, James Miller, Professional Planner, Robert O'Neil, Funplex Manager, Kenneth Furstoss, Show Producer with Pyrotecnico Fireworks and David Wollman, Attorney for the applicant were sworn in by Board Solicitor Mr. John Armano. Exhibit A1, The Funplex aerial photography plan board and firing location plan, was introduced. Mr. Wollman and Mr. Lahn testified to the purpose of the fireworks display as well as the maximum and minimum height, location and timing of the shows. Mr. Furstoss testified to the safety zone location, type of fireworks show, type and size of shells and mortars to be used and security procedures as well as reiterating the maximum height and length of the proposed show. Mr. Miller testified to the positive and negative criteria for the requested variance. Mr. Miller further testified that there is no residential use in the area and that the surrounding uses are industrial and institutional but do not operate at the time of the proposed show. Mr. Lahn testified that there is no immediate plan for a hotel on the property but it is a possibility in the future. Jay Petrongolo reviewed his report dated 3/23/2018. Discussion took place among the board professionals, board members and applicants witnesses, regarding the variance being requested. Mr. Miller, the applicants Professional Planner, argued the appropriateness of the requested D2 variance due to the show being an accessory use as he believes the fireworks show to be an ancillary activity, not a principle use, while the Boards Planner and Solicitor agreed that the variance should be a D1 variance requiring a higher standard of proofs. Mr. Miller stated that the use will promote purposes (a) and (g) in the MLUL 40:55D-2. Board Solicitor Mr. Armano addressed the Applicants Attorney, asking him to decide which variance they would like to argue before moving forward. A five (5) minute recess was called at 8:42. The hearing resumed at 8:48. Mr. Petrongolo further explained to the Board that the Funplex application has

been previously heard before the Planning Board, which would only hear the application if it were a permitted use. Therefore, it is established that the amusement park is a permitted/conforming use in the Industrial Zone. Since a D2 variance is a variance to expand a non-conforming use, there is no justification to argue a D2 variance. A two (2) minute break was called at 8:56 to allow the applicants attorney to confer with his client. The hearing resumed at 8:59. Mr. Wollman informed the Board that the applicant will move forward arguing a D1 variance but would like to reserve the right to argue a D2 variance if the D1 is denied. Mr. Armano, Board Attorney expressed his opinion that Mr. Wollman's request would be inappropriate. Mr. Armano proposed an adjournment to allow the applicant to return to the Board for an interpretation hearing. Mr. Lahn said he wanted to continue with this hearing conceding that the variance is a D1 variance and he will accept the Boards decision as final. At 9:06 P.M. Chairman Francescone asked for a motion to extend the hearing to 10:00 P.M. due to the 1½ hour time limit approaching, Mr. Killen moved the motion, Ms. Liciaga second, all present voted in favor and the motion was carried. Mr. Petrongolo addressed the Board informing that a nearby development, Signature Homes, is currently under construction and in his opinion the fireworks will have an impact on those homes. Mr. Long reviewed his report dated 3/21/2018. Mr. Furstoss, in response to Mr. Long's report testified to the FAA requirements and procedures and expressed the applicant's willingness to alter the display to reduce noise. Mr. Furstoss further explained that safety concerns are evaluated for each event individually and adjustments, to include cancellation, will be made according to the condition at that time of that event. Mr. Furstoss reiterated the purpose of the safety zone and security measures that would be in place. Mr. Lahn testified to the reimbursement to the township for emergency personnel. Chairman Francescone requested data relating to the dBA's (decibel levels adjusted) created from the fireworks display, Mr. Furstoss responded that there are no studies to his knowledge and that the variables during a show would differ greatly and render data from one show inaccurate for a different show, therefore, he could not testify to the dBA's that would be produced from the proposed Funplex fireworks show. The Board agreed to a request by Mr. Wollman at 9:29 P.M. to continue the application until the next Regular Zoning Board meeting on May 2, 2018 with no notice required.

Adjournment: Chairman Francescone asked for a motion to adjourn the meeting at 9:31 P.M. Vice Chairman List moved the motion. All present voted affirmatively and the motion was carried.

Adopted on: May 2, 2018

Suzanna O'Hagan, Secretary
Zoning Board of Adjustment