

**BLAIRSTOWN TOWNSHIP
LAND USE BOARD
January 20, 2014**

MINUTES

The Blairstown Township Land Use Board met in a regular session on Monday, January 20, 2014, at 7:30 pm at the Blairstown Municipal Building, 106 Route 94, Blairstown, New Jersey. The following members were present: Barbara Green, David Keller, Herman Shoemaker, Charles Anderson, Mike Repasky, Nick Mohr, Paul Avery, Jim Sikkes, Debra Waldron, Harold Price, Dominic Daleo and Brian Walsh. Andrew Smith was absent. Also present were: Board Engineer, Ted Rodman, and Board Attorney, Roger Thomas. Board Secretary, Marion Spriggs was absent.

SALUTE TO THE FLAG: was recited.

ADMINISTRATION of OATHS:

Roger Thomas administered the Oaths of Office to Board members, Michael Repasky, Nicholas Mohr, Herman Shoemaker, Paul Avery and Dominic Daleo.

ROLL CALL: was taken.

THE SUNSHINE STATEMENT: was read.

Meeting was called to order by Chairwoman Waldron, who stated:

“Adequate notice of this meeting of the Blairstown Township Land Use Board has been provided in accordance with the Open Public Meetings Act (Chapter 231.P.L. 1975)”.

REORGANIZATION:

At this time, Roger Thomas called for nominations for the 2014 Chairperson.

Debra Waldron was nominated as Chairwoman by Keller, and seconded by Mohr.

There were no further nominations made for Chairperson.

Action: The nomination for Debra Waldron to serve as Chairwoman, was duly made by Mr. Keller, seconded by Mr. Mohr. Roll call vote: Anderson, Green, Keller, Mohr, Repasky, Avery, Shoemaker, Sikkes, Waldron, Price, Daleo and Walsh – yes.

Chairwoman Waldron called for nominations for the 2014 Vice Chairperson.

Jim Sikkes was nominated as Vice Chairperson by Mrs. Waldron and seconded by Mr. Shoemaker.

There were no further nominations made for Vice Chairperson.

Action: The nomination for Jim Sikkes to serve as Vice Chairman, was duly made by Mrs. Waldron, seconded by Mr. Shoemaker. Roll call vote: Anderson, Green, Keller, Mohr, Repasky, Avery, Shoemaker, Sikkes, Waldron, Price, Daleo and Walsh – yes.

At this time Chairwoman Waldron, called for the following nominations:

Action: The nomination for Roger Thomas, Esq., Dolan & Dolan, to serve as Board Attorney, was duly made by Mrs. Waldron, seconded by Mr. Keller. Roll call vote: Anderson, Green, Keller, Mohr, Repasky, Avery, Shoemaker, Sikkes, Waldron, Price, Daleo and Walsh – yes.

Action: The nomination for Ted Rodman, Rodman Associates, to serve as Board Engineer, was duly made by Mrs. Waldron, seconded by Mr. Shoemaker. Roll call vote: Anderson, Green, Keller, Mohr, Repasky, Avery, Shoemaker, Sikkes, Waldron, Price, Daleo and Walsh – yes.

Action: The nomination for Marion Spriggs to serve as Board Clerk, was duly made by Mrs. Waldron, seconded by Mrs. Green. Roll call vote: Anderson, Green, Keller, Mohr, Repasky, Avery, Shoemaker, Sikkes, Waldron, Price, Daleo and Walsh – yes.

Action: The nomination for Barbara Green to serve as Board Secretary, was duly made by Mrs. Waldron, seconded by Mr. Sikkes. Roll call vote: Anderson, Green, Keller, Mohr, Repasky, Avery, Shoemaker, Sikkes, Waldron, Price, Daleo and Walsh – yes.

Mrs. Waldron clarified, for the record, that the nomination for Planner is not a permanent contract. It is by call at an hourly rate, which has not changed.

Action: The nomination for Darlene Green, of Maser Consulting, to serve as Board Planner, was duly made by Mr. Shoemaker, seconded by Mr. Repasky. Roll call vote: Anderson, Green, Keller, Mohr, Repasky, Avery, Shoemaker, Sikkes, Waldron, Daleo and Walsh – yes. Price – abstained.

Resolution Complying with the Open Public Meetings Act

Roger Thomas explained this resolution can be done by voice vote – no roll call is necessary.

Action: A motion was made by Mrs. Waldron, seconded by Mr. Keller, and unanimously approved to adopt the schedule of meetings and designate The New Jersey Herald and Star Ledger as official newspapers, complying with the Open Public Meetings Act. There were no abstentions

LAND USE BOARD DEADLINE DATES:

Chairwoman Waldron declared that submission of information supporting applications must arrive at Town Hall **10 calendar days prior to meetings**. She explained this is an effort to give

the Board members enough time to review the documents and requested this notice be read at each meeting.

MINUTES OF PREVIOUS MEETING: (As distributed prior to the meeting date).

Minutes of the December 16, 2013 Regular Meeting were approved, as written.

Action: A motion was duly made by Mr. Keller, seconded by Mr. Sikkes to approve the December 16, 2013 Regular Minutes, as written. Roger Thomas noted this can be done by voice vote. The minutes were unanimously approved, with no oppositions or abstentions.

RESOLUTIONS:

None

COMPLETENESS:

(Former LB#01- 12) **LB#06-13 John Clark**, Blk. 801, Lot 1, 2.01 No road frontage

Peter Hilgendorff, introduced himself as attorney for the applicant. He indicated the applicant is seeking relief from Sections 40:55D-35 and 36 of the MLUL. (This was the case for initial application LB#01-12, which was dismissed without prejudice.)

Based upon Ted Rodman's report dated 12/14/13, both Roger Thomas and Ted Rodman advise that the application as submitted, recognizing exchange of checks, could be deemed Complete.

Action: A motion was duly made by Mr. Anderson, seconded by Mr. Repasky to approve the **LB#06-13 John Clark**, Blk. 801, Lot 1, 2.01 No road frontage. Roll call vote: Anderson, Green, Keller, Mohr, Repasky, Avery, Shoemaker, Sikkes, Waldron, Price, Daleo and Walsh – yes.

Attorney Hilgendorff stated that Notice will be given for the 200 ft. adjacent land owners, in addition to all those bordering the common driveway that will be affected by the decision.

PUBLIC HEARING:

None

CORRESPONDENCE:

NJ Planner – Nov./Dec. Issue

OTHER BUSINESS:

2013 Land Board Annual Report

Roger Thomas indicated he would have the Report available at the February 17, 2014 meeting.

Darst #ZB04-10 – Compliance

COAH – update by Darlene Green, PP and Theresa Tamburro, MHL

Roger Thomas indicated an Appeal has already been submitted to NJ Supreme Court which revised the regulations, even though COAH does not exist at this moment in time. He declared the entity does exist.

He said the COAH staff consisted of 15-20 Planners which are now reduced to only 4, who are thinking about some modified regulations, as ordered by the NJ Supreme Court. Currently there are no members of the COAH Committee.

He reviewed there was a lawsuit by NJLM and various municipalities, to stop the State from taking monies they collected. That lawsuit wound up stopping the Governor from doing it unless there were hearings. It is his understanding as of 2 weeks ago, that COAH seems to be taking the action at the direction of the Governor's Office, to start confiscating the money, and then starting the Hearing process.

He concluded, there is the issue of compliance and the issue of no one getting the municipalities' money.

Roger Thomas will contact Theresa Tamburro, MHL, to verify that the funds were committed.

REZONING REQUEST: (a)Fifteen-minute appearance without professional review)

LB#05-13 NORTH WARREN REGIONAL H. S. Bd. of Ed – Consideration of public schools as permitted use in R-5 zone

Jim Fox, Morris, Downing & Sherred, of Newton, NJ, attorney for the applicant, explained their request for change in zone for the school board property. They would like to add educational use, as a permitted use, in an R-5 zone. The property was developed as a school in 1970. They wish to do this, as there is some duplication at times for certain applications they want to submit.

He explained that permission is necessary from the State Board of Education for any type of structure associated with the education process. Currently they have to come to this Board for variances since they are in R-5 zone. He noted although application fees are waived, as a

courtesy, escrow for professional services is not. He commented that they are not trying to circumvent the Board's authority but rather save taxpayers money.

Dr. Brian Fogelson, NWRHS Superintendant, 10 Noe Rd., Blairstown, was sworn in.

Chairwoman Waldron asked for an example of what may be coming up that might be a duplicity cost wise for the school.

He referred back to the Solar Project. He revealed The Board of Education is planning an educational facility and has applied to the NJ Dept. of Education for approval of that project. He said it will be an approximately 10,000 sq. ft. building in the back where a fenced-in parking lot is located. It can't be seen from Rt. 94 or Lambert Rd.

It will be a multi-purpose building with locker rooms, storage and utility space, and multi-purpose rooms for athletics. There will be bleachers for 200 people.

Dr. Fogelson noted that the rules that govern them require that they appear before the Land Use Board to show the completed drawings and move forward with the process of getting the project done and getting the funding.

Chairwoman Waldron asked if that would be necessary if granted an approval in the R-5 zone.

Mr. Fox responded it would only be an Advice and Consent type of application whereas if a variance was needed, they would have to go through the entire variance process.

Chairwoman Waldron asked if the thought process regarding the landscaping of the Solar Panels, without the Board's input, would have changed any. She noted the public was concerned about the appearance. She commented that the Board is charged with making the appearance a more positive aspect.

Mr. Fox stated this statute would require them to come before the Board with an Advice Application. He noted that discussion would be raised but that is much different than coming before the Board and having The Board dictate what the School would have to do. He said which may be more than what is necessary to satisfy the NJ State Dept. of Education.

Mr. Mohr asked why they feel that The LUB should recommend to the Township Committee, that the entire R-5 zone should permit schools as a permitted use and not zone this particular piece of property as a permitted use.

Mr. Fox responded felt that would trigger a very formal application to change this zone which would be costly and time consuming and they are not trying to take the jurisdiction of this Board completely away.

Mr. Mohr commented there would be farther reaching implications of the LUB taking this action. He said a decision would be made for a large portion of the Town zoning based on the request to do something on one particular parcel.

Vice Chairman Sikkes, stated the only way to resolve this request is to change part of the zone from R-5. He declared this is a large area. He questioned the rest of the zone, and how it would affect others in the future - causing a bigger problem.

Mr. Fox noted that NWRHS comes before LUB almost exclusively in a Variance capacity. He stated that makes for a much more difficult application. He said they would be open to a zoning change on this lot.

Mayor Shoemaker commented that on the surface, this concept sounds very reasonable but if applied to R-5, the door is wide open for anybody and anything, at any time.

Mr. Mohr interjected he would like to take the opportunity to review this more in depth in order to seek resolution without creating unintended consequences, and at the most-fiscally responsible process to the taxpayer.

The question of enforcement was raised if the school appears only in an advisory capacity.

Dr. Fogelson responded that specific variances would still require appearance before this Board. He also noted Code requirements will still have to be met.

Roger Thomas pointed out the Board of Ed chose to appear tonight and not include him, as LB Attorney, Ted Rodman, as LB Engineer or Darlene Green, as LB Planner. He indicated that this could be resolved, but not in 15 minutes without professionals. He said he suggested this in a conversation that he had with Mr. Fox last Friday.

Mr. Fox responded that the school Board chose not to pay escrow in an effort to save the taxpayers' money. They would be happy to have a full blown Hearing with experts, if the District did not have to pay for it.

Mr. Fox stated he was not certain, by definition, that the applicant has to pay expert fees. He thinks the Town would pay the expert fees if they felt it was in the Town's best interest.

Roger Thomas said that is a function of negotiations between the LUB and Township Committee. He explained that is not this Board's jurisdiction or ability. He pointed out that if they want to go to the Township Committee or it comes out of the Bd. of Ed budget, it is all taxpayers' money. He declared getting something done will require advice from professionals. He noted that right now, they do not have that ability.

Mr. Fox suggested tailoring "PUBLIC school use only" in an R-5 zone, to allay concern about future encroachment from private institutions.

Dr. Fogelson questioned how long this would take. Roger Thomas revealed it would take several months. Dr. Fogelson stated that he would report back to the Bd. of Ed that if they want to do anything, they would need to engage in the process and provide additional funds.

NEW BUSINESS:

PUBLIC PORTION:

No members of the public were present.

VOUCHERS: Professional services rendered.

Maser Inv. 222340 COAH presentation - sharing cost with Twp. Comm.?

Chairwoman Waldron stated that Darlene Green, PP prepared a report at the request of the Township Committee re: COAH. Mrs. Waldron asked Mayor Herman Shoemaker to go back to the Township Committee seeking financial help. She noted the amount of the bill was \$1,127.50. which does not include Darlene's performance when the presentation is made. She stated that was not told to the LUB, when the bill was presented.

She asks this bill be split, since it was at their direction and not this Board's direction, that this project is entertained.

She noted payment of Maser Invoice #222340 for \$1,127.50 is being deferred until a response is received from Township Committee.

In addition, Chairwoman Waldron asked the Township Committee members on this LUB, to go back to the Township Committee to consider Mr. Sikkes' suggestion that the Township Committee pay the total cost of the Hearing Room computer, since it is Township property. The LUB paid \$1,795, representing one-half the cost.

She pointed out that she does not want this Board to run out of money a few months down the line due to possible litigation costs. She referenced Attorney Bill Hincke's 2013 invoices for \$2,484.00 and \$1,152.00 for Darst litigation taken out of the LUB budget.

Action: On a motion duly made by Mr. Sikkes, seconded by Mr. Mohr, escrow and general vouchers, as attached to these minutes, were approved. Roll call vote: Anderson, Green, Keller, Mohr, Repasky, Avery, Shoemaker, Sikkes, Waldron, Price, Daleo and Walsh – yes.

ADJOURNMENT:

Chairwoman Waldron asked the Board for a motion to adjourn.

Action: On a motion duly made by Mr. Anderson seconded by Mr. Sikkes, and unanimously carried, the meeting was adjourned at 8:57 pm.

Respectfully submitted,

Marion C. Spriggs, Board Secretary