

**BLAIRSTOWN TOWNSHIP
LAND USE BOARD
September 16, 2013**

MINUTES

The Blairstown Township Land Use Board met in a regular session on Monday, September 16, 2013, 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, Nick Mohr, Paul Avery, Jim Sikkes, Andrew Smith, Harold Price, and Dominic Daleo. Mike Repasky, Brian Walsh, and Debra Waldron, were absent. Also present were: Board Engineer, Ted Rodman, Board Attorney, Roger Thomas, and Board Secretary, Marion Spriggs.

SALUTE TO THE FLAG: was recited.

ROLL CALL: was taken.

THE SUNSHINE STATEMENT: was read.

Meeting was called to order by Vice Chairman Sikkes, 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)”.

LAND USE BOARD DEADLINE DATES:

Vice Chairman Sikkes declared that submission of information supporting applications must arrive at Town Hall **10 calendar days prior to meetings**. He explained this is an effort to give the Board members enough time to review the documents and noted Chairwoman Waldron requested this notice be read at each meeting.

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

Minutes of the August 19, 2013 Regular Meeting were approved, as modified.

Action: A motion was duly made by Mr. Shoemaker, seconded by Mr. Keller to approve the August 19, 2013 Regular Minutes, as modified. Roll call vote: Green, Keller, Shoemaker, Anderson, Mohr, Avery, Smith, Price, and Daleo – yes. Sikkes abstained.

RESOLUTIONS:

None

COMPLETENESS:

LB#04-13 Est. of Mary Kinney, 402 Rt. 94, Blk. 508, Lot 7, Minor Subdiv.

Richard Keiling, attorney for the applicant, explained a waiver is being requested for septic system, details, and soil logs because the Blairstown property is not going to have a residential dwelling on it. They are proposing to have an approximate 8 ½ acre parcel, where there is an existing home in Knowlton Township. The rear of the property is going to be about 32 acres, which is 20+ acres in Knowlton, and about 10 ½ acres in Blairstown.

Any construction or residential building will be in Knowlton.

He said the long-range plan is to subdivide the back 32 acres, have a 1 acre, non-severable exception. He has submitted an application to The County Development Board to buy the development rights.

Vice Chairman Sikkes questioned if the applicant is willing to agree that there be no construction, of any type, including the septic system. Mr. Keiling responded, at this time, he can't commit to that because it would restrict their ability to sell the development rights to the County. They would see it would already be deed restricted.

He said he can indicate to this Board, that's what the intention is. He is willing to present a copy of the application for review.

Vice Chairman Sikkes noted this can be waived for Completeness but at the time of the Hearing, hopefully, Mr. Keiling will have an answer.

Mr. Keiling noted this is on the Agenda in Knowlton for Tues., September 24th. He is certain he will have an answer upon his return to this Board for a Hearing on October 21st.

Ted Rodman pointed out that even if they were not accepted into the Program, it would still be a good sub-division. Roger Thomas indicated this can be settled at the time of the Hearing.

Action: A motion was duly made by Mr. Shoemaker, seconded by Mr. Anderson to deem **LB#04-13 Est. of Mary Kinney**, 402 Rt. 94, Blk. 508, Lot 7, Minor Subdiv. – Complete, with the aforesaid waiver. Roll call vote: Green, Keller, Shoemaker, Anderson, Mohr, Avery, Sikkes, Smith, Price, and Daleo – yes.

PUBLIC HEARING:

LB#03-13 Robert Tramontin, 107 Mt. Hermon Rd., Blk 1707, Lot 10.07, Bulk Vars. – car barn

Richard Keiling, attorney for the applicant, explained this is a continuation of Hearing held on 8/19/13.

Mr. Keiling noted he became involved with this project 3 weeks ago. He stated the applicant wishes to construct an oversized garage for storage of personal vehicles.

He noticed from Ted Rodman’s report, there were a few variances. The paramount one, being that it is a structure in a front yard. Variance #2 – it has greater than amount permitted of impervious surface. Finally, a larger than permitted building, is requested.

David Diehl, Zoning Officer, submitted a memo dated 9/12/13 stating his position that this is a side yard.

Robert Berry, PE, PP, of Hope, NJ was sworn in.

Mr. Berry indicated that this is a unique property. In 1965 Rt. 80 came through and severely realigned Mt. Hermon Rd. Accordingly, Warren County vacated this portion of Mt. Hermon Rd., leaving the paved area. Also, Blairstown Twp. vacated that portion of Centerville Rd. He explained by vacating these 2 roads, they land locked Mr. Tramontin. He explained Mr. Tramontin inherited impervious surface by virtue of road dedication.

He presented the following exhibits, explaining each in detail.

The following Exhibits were marked:

- A-1 Marked-up print of Land Survey by Robert Berry dated 3/3/98, added to 2/8/99
- A-2 Vacation Resolution from Bd. Chosen Freeholders Abandoning Portion Old Mt. Hermon-Polkville Rd.
- A-3 Deed of Easement dated October 1998
- A-4 Aerial Map 2007 (retained by Mr. Berry)
- A-5 Aerial View of Surrounding Lot 2007
- A-6 Memorandum from D. Diehl dated 9/12/13 determining area as a side yard

Mr. Keiling noted that the application indicates that spruce and pine will be planted as a buffer, at the direction of the neighbor and /or in accordance with recommendations of Mr. Rodman.

Mr. Berry pointed out the proposed metal building is 76' x 30' which is larger than permitted. He noted this is not going to be the only large accessory building in this neighborhood as evidenced by the aerial photos he presented. He feels as long as this building is buffered, the adjacent landowner will not even see the proposed building.

Mr. Keiling said the current height will be 20'. Originally it was to be 25'.

He noted an additional variance, of which they were unaware, is required. They do not have frontage on an approved-township road because of the abandonment. This is something the applicant did not create. This was included in the Notice of Hearing.

Mr. Robert Tramontin, 107 Mt. Hermon Rd., Blairstown, NJ was sworn in. He explained he has some collectible cars and motorcycles he would like to store there. He will wash and polish vehicles but no major mechanical repair will be done there. Any repair will be done by his mechanics in his shop in Hope.

He requests electricity for lighting, running water, but no bathroom, or living space. The applicant agrees to deed restriction.

It will have 2 garage doors and 1 man door.

He plans lighting and a surveillance camera. He said the lighting would not affect the neighbor as it would be on the other side.

Mr. Tramontin revealed he chose this spot because he wanted to put the building where it would be least intrusive. He has spoken with his neighbor who is in agreement with the proposal.

The driveway will be macadam. Moving the building back further would create more impervious surface.

Vice Chairman Sikkes asked if the building size is still at 74% which is over the allowable 30%, now that the height has been changed. Mr. Keiling responded affirmatively.

Mr. Ed Vazquez, Vazquez and Assocs., 220 Lakeside Dr., of Belvidere, contractor for the applicant, was sworn in.

Mr. Keiling noted that Mr. Sikkes is concerned with where the water is going from the roof area.

Mr. Vazquez responded, the drawing reveals this, showing all the drainage run off will be barricaded by a 4 ft. berm made from the excavated soil and located behind the existing berm.

He pointed out, a swale will go back around. He confirmed that the sheet runoff will be absorbed in the area going towards Rt. 80. Ted Rodman pointed out that this is not shown on the Architect Gogan's drawing and must be a condition.

Mr. Keiling revealed there may be some undercurrent that this is a front yard. He said they can only go by Mr. Diehl's determination. If the Board finds this unacceptable, he will ask for a variance for the front yard setback.

He admitted that travelling from Hope to Blainstown, a small portion, the overhead door, and 30 ft. wide section, may be seen.

Regarding the impervious surface, he recognizes they are at 20% but 8 ½% was inherited from the abandonment by the County. He said denial or not, they are still outside the requirement. He agreed with Mr. Berry, if they were to rip up the roadway, they would be destroying the neighbor's access by taking ½ of his driveway.

He acknowledges the sq. footage is greater than what is permitted (74%) but argued it is a reasonable request to store the collectible vehicles, all together inside, rather than outside.

Mr. Keiling addressed the issue of not having frontage on an improved Township road. He claims this is a variance the applicant has nothing to do with, created by the abandonment of the road.

The height variance has been resolved by eliminating the cupola as shown on the revised drawings.

Ted Rodman pointed out access to this land-locked lot remains unchanged and is by easement. Emergency vehicles can enter it that way.

Concern was raised that this is considered a front yard. Roger Thomas said he read David Diehl's memo of 9/12/13 and agrees this appears not to be a front yard if the angle measurement was put on the curve where Mt. Hermon is, which is the SE corner of the house. He said that is what the Ordinance says. He reiterated this is a uniquely-shaped property and does not set a precedence.

This portion of the Hearing was opened to the public. There were no questions or comments from the public.

Roger Thomas indicated there would be 2 variances needed. One is for the size of the building. Secondly, the MLUL indicates no building permit should be issued unless it is a lot that abuts the street and has adequate access for emergency and fire equipment.

He summarized by stating if the Board so approves, he suggests the following be considered conditions in the Resolution:

No repairs conducted on site

No living space authorized

It be deed restricted

No lighting on outside – infra red camera is acceptable

A new berm is to be built with evergreen trees 6 to 8 ft. tall – (to be approved by Ted Rodman)

Roger Thomas noted the lighting would be up to the mover to modify the above suggestion.

Ted Rodman referenced Additional Comments, Item #3, map with existing conditions, on his 9/13/13 report. Bob Berry indicated he dropped a sealed copy off this morning to Ted's office. Also, he will provide same tonight for the file, thus satisfying that condition.

Mr. Keller moved that this application be denied for the following reasons. He stated there is ample room on this property to locate this building in a less obtrusive location. He said it is visible from Mt. Hermon Rd., regardless if it is a side or front yard. He feels that building is very unattractive and will face Mt. Hermon Rd. with no windows or architectural appeal.

Roger Thomas clarified that to vote yes, is to deny this application.

Action: A motion was duly made by Mr. Keller, seconded by Mr. Sikkes to deny **LB#03-13 Robert Tramontin**, 107 Mt. Hermon Rd., Blk. 1707, Lot 10.07, Bulk Vars. – car barn. Roll call vote: Green, Shoemaker, Anderson, Mohr, Avery, Smith, Price and Daleo – no. Keller and Sikkes – yes.

Roger Thomas declared the motion to deny failed.

Action: A motion was duly made by Mr. Shoemaker, seconded by Mr. Avery to approve **LB#03-13 Robert Tramontin**, 107 Mt. Hermon Rd., Blk. 1707, Lot 10.07, Bulk Vars. – car barn with the conditions set forth by Roger Thomas, **with lights with a switch, being allowed but not on the Mt. Hermon side.** Roll call vote: Green, Shoemaker, Anderson, Mohr, Avery, Smith, Price and Daleo – yes. Keller and Sikkes – no.

CORRESPONDENCE:

None

OTHER BUSINESS:

Accessory Structures

Regarding Bill Seal's issue, which is the use of an accessory structure for other than what it was built for, Vice Chairman Sikkes clarified, this becomes a zoning matter which needs to be addressed by the Zoning Officer, David Diehl.

Mr. Shoemaker indicated Mr. Seal has also reported, a second issue, on that same property, is a very large building that is being used to store firewood for possible sale.

Vice Chairman Sikkes stressed enforcement is to be directed from the Township Committee.

Ordinance 19-405E.5 **Parking of Large Vehicles on Residential Properties**

Roger Thomas stated the issue is with Section 405 E (5) (c)

He suggested a simple solution be to remove the phrase "but not exceeding 14,000 pounds", which identifies the term "large vehicle".

He further noted by indicating "10,000 lbs AND no longer than 25 feet" would be more specific.

Roger Thomas pointed out there is a separate section for RVs, etc. which does not indicate any weight or length.

Vice Chairman Sikkes noted an RV must be parked in the side or rear yard, no one can live in it and it shall have no power.

Mr. Mohr pointed out there are other types of vehicles that would exceed the criteria discussed that have collectible, historical value which are not used in the pursuit of commerce.

Roger Thomas pointed out agricultural vehicles are exempt. He said that now leaves only the collectible. He said it would be the Board's opinion if that was still considered a large vehicle. He offered that in his opinion, owners of such vehicles, because of their value, would like to keep them inside anyway which would make them exempt.

Mr. Price suggested that the weight be 14,000 lbs.

Roger Thomas will change (c) “large vehicle” to read “14,000 lbs AND no longer than 25 feet” to clearly define the current Ordinance. He will present this at the October 21, 2013 LB meeting at which time, The Board can decide if they want to approve it to go to the Township Committee.

Roger Thomas stated this section is dealing with the R5 zone.

Solar Ordinance – review by Roger Thomas

Roger Thomas pointed out that although he is prepared to discuss this, perhaps it should be deferred until Chairwoman Waldron is present. Vice Chairman Sikkes agreed.

Darst #ZB04-10 – Compliance

No comment at this point.

COAH – update

Mr. Shoemaker suggested asking Theresa Tamburro, MHL, to give an update. He stated the quick update is, the money has all been spent. He mentioned adopting the Builders’ Remedy. Roger Thomas noted that is a big topic to discuss.

Mr. Shoemaker suggested possibly having Darlene Green, PP of Maser Consulting, come in and explore that with the Board.

He stated the Governing Body is going to want to have some feedback on this.

Vice Chairman Sikkes suggested having Mrs. Green come to the October 21st LB meeting since some will attend the NJLM in November.

Mr. Shoemaker said he will get in touch with Mrs. Green and report back to the Chair.

NEW BUSINESS:

None

PUBLIC PORTION:

This portion of the meeting was opened to the public for comment. There were no comments or questions.

NWRHS Solar Panels LB#05-12

Ryan Scerbo, Esq., special energy counsel to the Bd. of Ed., of Decotiis, FitzPatrick & Cole, of Teaneck, NJ and Dr. Brian Fogelson, Superintendent of Schools for NW Regional School District appeared before the Board.

Dr. Fogelson stated they came to hear results of Ted Rodman's report. He explained that they were trying to meet the requirements originally outlined by the Land Use Board. He feels it has been going on and on, and the projected expense of the landscaping has more than doubled since the first meeting with Ted Rodman.

He said they would like to conclude this and start moving the dirt to move the berm and start putting the plantings in. He declared when they first started this, they would have had this all done by now but there have been changes and changes.

Roger Thomas responded this application was approved almost 1 year ago. He said the Board made it very clear, the concern was visibility. Therefore what this long process has been, is Mr. Rodman's attempt, to have the Bd. of Ed comply. He believes the map that may come to that final conclusion, has only recently been submitted as of last week.

He noted that this Board is not particularly able to deal with the issue of expense. He said it is not of this Board's concern.

Roger Thomas explained the length of time has been an attempt of Mr. Rodman to carry out the mandate of the Land Use Board to make sure the visibility is non-existent to minimal.

Dr. Fogelson said he has met a couple times on the property with Mr. Rodman and Ms. Waterbury, the Landscape Engineer, and people from Hudson Energy, the builder. Onsite the design seemed ok. Pictures have been taken and decisions made. He noted when the design is submitted, it never seems to be good enough. He indicated it has always been the intention of Hudson and the Bd. of Ed to do what was going to be required. He said their frustration is that it is almost a year, seemingly because every time they appear to reach an agreement on the property and it gets reduced to paper, he feels it's almost like someone is chirping in an ear.

Ted Rodman responded the Board has given him responsibility to approve this. He said, first of all, there were not agreements on the site but rather discussions as to what was going to be done. He explained if those discussions did not come out in the paper submitted, it's not an agreement. He reiterated it's not an agreement, until it is what he said.

Ted Rodman continued, as far as other people involved, he has not talked to another soul about this application. There was no other input from anybody else on this Board. He stated it was his discussions with their engineer.

Ted Rodman explained this is an ongoing engineering problem that has taken time. Although he had many discussions with the engineers, he recalls that Elizabeth Waterbury, PE, PP, has only submitted 2 or 3 drawings.

He announced that as of last Tuesday, he has finally received the final set with which he agrees, with minor exceptions as to the type of landscaping. Ted Rodman said he has his landscape architect looking at it to confirm the types of trees. He noted, one of the dogwoods might not be applicable to the site.

He thinks they've accomplished what the Board has directed, with the last drawing. That is, to hide the solar panels.

He reiterated that it took some fences, and additional berm. He explained there are reasons for all that happened so far. He said there will be additional planting.

He continued, as far as the cost is concerned, he did not know they were working with a budget. That is not his responsibility.

Ted Rodman explained that a wood fence w/ trees in front, is recommended on the N.E. side because there is not enough soil.

Vice Chairman Sikkes, noted that he visited the site. He suggested perhaps the needed berm should have been done at the time of construction of the panels, to eliminate cost.

Ted Rodman explained that he has gotten site profiles, which he'll share with the Board. Now, with the fence, the panels are not visible across the top - all the way across Rt. 94. (This is from the vantage point of a 6 ft. tall person, standing on Rt. 94.)

He said in his opinion, the panels should be entirely hidden. That is what he attempted to do. Attorney Scerbo, clarified that the School Board is entirely in agreement with what has been presented. They desire to bring it to a close and move on to the planting stage.

Dr. Fogelson noted that the company is prepared to bring in more soil to complete the entire berm.

Roger Thomas clarified, this is only a discussion, during the Public Portion of this meeting. It is not intended to change what is in the Resolution, memorialized on 10/15/12. He said the Resolution indicates that Mr. Rodman is the one making the final decision.

Ted Rodman indicated there will be a written report to follow. He said the berm and fences are ok. They can start moving dirt. There is simply a question swapping a tree for a tree.

He added, an additional, mixed-variety, of 27 trees have been included, to be placed as needed, at strategic locations, after the project is completed.

Dr. Fogelson wanted clarification of the deadline date of 12/18/13.

Ted Rodman responded he suggested the deadline date, and recommended a temporary CA for the project, to allow for its current operation. He indicated he would be willing to extend it, if there were extenuating circumstances involving the tree planting.

Roger Thomas interjected, extenuating circumstances are not expected. He also pointed out, that Ted Rodman already indicated the Plan now appears to be acceptable, so they can start moving, and get the Plan done this season.

Herman Shoemaker asked if Ted Rodman will send a letter to the School Board indicating here is the Plan, and it is ready to go. Ted responded affirmatively. He wants another week to swap some of the trees and get them okayed. Ted Rodman finalized by stating the berm and fences can be started.

Dr. Fogelson wished to point out, even if all the plantings were in, as the dormant season approaches, the array will still be visible in some portion and spots until the Spring comes. He understands the concern from the Land Use Board's viewpoint, is that no one from any place should be able to see it. He believes tonight this has been accomplished.

VOUCHERS:

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

ADJOURNMENT:

Vice Chairman Sikkes asked the Board for a motion to adjourn.

Action: On a motion duly made by Mr. Keller seconded by Mr. Anderson, and unanimously carried, the meeting was adjourned at 9:47 pm.

Respectfully submitted,

Marion C. Spriggs, Board Secretary