

**BLAIRSTOWN TOWNSHIP  
PLANNING BOARD  
September 21, 2009 – 7:30 PM**

**MINUTES**

The Blairstown Township Planning Board met in regular session on Monday, September 21, 2009, at 7:30 pm at the Blairstown Municipal Building, 106 Route 94, Blairstown, New Jersey. The following members were present: Debra Waldron, Steven Becker, Dirk Herrmann, Jane Santini, Rosalie Murray, Bill Seal, Mayor Richard Mach, Jim Sikkes, and Herman Shoemaker. Raymond Snyder was absent. Also present were Board Engineer, Ted Rodman, and Board Secretary, Marion Spriggs. Board Attorney, Roger Thomas, was absent.

**SALUTE TO THE FLAG:** was recited.

**ROLL CALL:** was taken.

**THE SUNSHINE STATEMENT:** was read aloud.

**MINUTES:** (As distributed prior to the meeting date.)

Minutes of August 17, 2009 Regular Meeting were approved, as written.

**Action:** A motion was duly made by Mrs. Waldron, seconded by Mr. Becker, to accept the August 17, 2009 Meeting minutes, as written. Roll call vote: Waldron, Becker, Herrmann, Santini, Murray, Seal, Mayor Mach, Sikkes and Shoemaker—yes.

Ted Rodman, Township Engineer, arrived at 7:33 pm.

**RESOLUTIONS:**

**PB#03-09 Grater. LLC, Block 904, Lots 7 & 8, Preliminary Major Site Plan, 110 Rt. 94 & 6 Jacksonburg Rd.**

Ted Rodman talked with Roger Thomas today and he has this resolution. Since Roger Thomas was unable to attend tonight's meeting, the Board members are awaiting the resolution. No action can be taken at this meeting.

**COMPLETENESS:**

**PB#05-09 John Kent, Block 2003, Lot 13, 13.02, Minor Subdiv. – Lot Line Adjust. 116 & 118 Hope Rd.**

Ted Rodman reviewed his report dated 9/15/09. He stated that this is a lot line adjustment subdivision, where ½ acre is being removed from one lot and added to another lot. The lots will end

up exactly as they started. He explained that the vacant lot will have only a small agricultural shed on it. Ted Rodman estimates the size to be 10' x 25'. The property is farmland assessed.

Ted Rodman revealed that the smaller 3 acre lot, is an existing non-conforming lot, being subdivided, but increased to 5 acres. Attorney Richard Keiling is aware of this and will address it at the Hearing.

Mrs. Kent has died, and her son, John Kent who inherited the property, will provide testimony that he has the authority to sign, as the owner.

Ted Rodman recommends this application for Completeness, with the condition that Item #3, pertaining to ownership, on his 9/15/09 report, be resolved.

**Action:** A motion was duly made by Mrs. Waldron, seconded by Mr. Herrmann, to approve **PB#05-09 John Kent, Block 2003, Lot 13, 13.02**, Minor Subdiv. – Lot Line Adjust. 116 & 118 Hope Rd. for Completeness, with Item #3 as a condition, in the aforesaid report. Roll call vote: Waldron, Becker, Herrmann, Santini, Murray, Seal, Mayor Mach, Sikkes and Shoemaker–yes.

#### **PUBLIC HEARING:**

**PB#04-09 Robert & Cathy Brandt, Blk. 505, Lot 1.08**, 35 Kishpaugh Rd., (deferred)

#### **CORRESPONDENCE:**

BOA Minutes 8/11/09

Notice of Applic. for Treatment Works Appvl., 8/19/08, from T.Schaffer, Engin. for **Blair Academy**

**League Supporting Bill A-3343, Allowing Recreational Set-Asides, Fees-In Lieu as Part of Development Appvl.**

Mayor Mach suggested if the Board supports this Bill, a letter, with the League support request, needs to be addressed to the Governing Body, stating that the Planning Board is supportive of this matter.

Questions arose regarding invocation.

Mr. Sikkes, suggested that the Township Committee investigate this Bill further before the Planning Board renders its support, specifically, the size of the sub-division. He further questioned, how approval can be given, when it is not clear what the law is. It is his understanding, that support of the Planning Board is sought but the authority reverts back to the Governing Body. He believes the Board should await their attorney's explanation.

Mrs. Santini commented that the League wants to go deep into what's already in the MLUL for set-asides. She stated it is saying there is no authority for enforcement. The League is asking municipalities to define it.

Dirk Herrmann, stated that this is a positive tool for the Township which can't be used currently, because of a technicality.

Mayor Mach suggested carrying this matter until next month.

Chairman Shoemaker agreed to carry this over until next month when Board Attorney can advise.

**Kevin Doell, Environ Comm. Ltr., 8/7/09, Re: Sustainable Land Use Pledge**

Chairman Shoemaker asked Mayor Mach if the Township Committee supported the idea of sustainability in Blirstown. Mayor Mach responded affirmatively stating if the Planning Board has concerns regarding this, they should notify the Governing Body of them, for their review.

The following comments and concerns were made by Board members:

Problems with the word "pledge" was foreseen as possibly being used against the Township. Also, the word "sustainable" was questioned. Board members had questions pertaining to how this affects COAH and the Master Plan. A Board member pointed out that Item VIII, is being interpreted as putting less parking in, so people would have to ride bikes. Concern was raised that the Township will not get funds in the future, because it pledged to do this. Finally, a Board member commented this Draft Sample lends itself to rebuild an urban area, and not necessarily suited to rural areas, such as Blirstown Township.

Steven Becker, a Planning Board and Environmental Commission member, revealed that the intent of this is to provide the framework for Sustainable New Jersey, to give an outline as a model Charter to be used as a reference point in moving forward. They are trying to setup a base line, not trying to implement everything that is in it. He stated that this came from committees at the State level, who are working on sustainable land use.

Mr. Becker pointed out that the Environmental Commission is in favor of this. They are trying to solicit input from the Planning Board, which the Environmental Commission will fine tune, then turn it over to the Sustainable NJ Committee for refinement.

Ted Rodman explained this document in itself, does nothing. Ordinances are needed to back it up. The next step would be to develop Ordinances to do items suggested.

Chairman Shoemaker suggested 2 approaches. One, was to enumerate all the parts that were uncomfortable. The second approach, would be to use the Draft Sample as a template but Planning Board would write their own version.

A Sub-Committee was formed to review the Draft Sample provided by the Sustainable Jersey Program. It consists of Steven Becker, Jane Santini and Rosalie Murray. This Sub-Committee will bring their draft to the October 19, 2009 Planning Board Meeting.

**League Alert – NJLM Re: The New Jersey Economic Stimulus Act of 2009**

Mayor Mach stated due to the legislation passed on or around 7/17/2008, there is a moratorium on the 2 ½% fee for non-residential development. This correspondence is to make the Planning Board aware that Blairstown may have to refund Developer's Fees of 2 ½%, as was the case with the 1<sup>st</sup> Hope Bank refund of \$47,000. This money came out of the COAH Trust Fund.

**M. McGinley, Const. Dept., Memo 8/21/09, to Mayor Mach & MHL Re: Development Fee Moratorium**

Mayor Mach commented, at his request, Margaret McGinley put together this explanation of residential fee reimbursement, who it applied to, what it meant, and the conditions.

He is seeking direction from the Planning Board regarding the hi-lighted section on Page 3, regarding how the town's growth share obligation is affected after issuance of a refund. He stated that it indicates no reimbursement can be sought from the State, but the obligation still exists. Secondly, reimbursement can be obtained from the State Development Fees Fund, but the obligation remains. Lastly, if the funds are not available, there is no growth-share obligation.

Mayor Mach revealed that the question is, "What is the value of the Growth-Share obligation?". 1 unit equates to a minimum of \$40,000.

He further clarified that prior to the enactment of this Development Fee regulation, we did not have COAH fees collectible on additions. Under the Township's old Ordinance, a Development Fee could not be collected from 1st Hope Bank, for their addition. When the 2 ½% Development Fee on non-residential was signed into law by Gov. Corzine, the 2 ½% could now be charged.

**Motion:** A motion was duly made by Mr. Sikkes, seconded by Mrs. Murray, to seek, at an appropriate time, reimbursement for Development Fees refunded. Roll call vote: Waldron, Becker, Herrmann, Santini, Murray, Seal, Mayor Mach, Sikkes and Shoemaker—yes.

League Alert – Update on Commercial Development Fee (2.5%) Moratorium & Refunds – COAH

Star Ledger article - Linden abandons housing council over loss of fees

Express Times article – Court sacks housing quota protection - COAH

Wrn. Cty Plan Dept. ltr. 9/1/09 **#PB04-09 Brandt** Re: Conditional Approval

Wrn. Cty. Plan Dept. memo 9/9/09 Re: Warren Cty. Population Estimates

**OTHER BUSINESS:**

**COAH**

Mayor Mach stated that Bob Benbrook, Municipal Attorney, received notice from the Fair Share Housing Center, which is a public-interest organization, dedicated to the preservation and growth of the Mt. Laurel doctrine, working to ensure that every municipality in NJ works to provide its

fair share of low and moderate income housing. This organization presented an argument, to the Council, at the time Blirstown Twp. received its Substantive Certification.

Prior to receiving Substantive Certification, Dan Burton, our COAH Planner, informed Mayor Mach that Blirstown would hear an objection from the Fare Share Housing Center, which is working to change the rules slightly. Dan Burton, stated this will not affect Blirstown's Substantive Certification. It does not rescind our Substantive Certification. They are seeking to ensure that COAH lives up to its rules.

Failing to move COAH off base, this organization is approaching every town that has a plan in place. Mayor Mach has heard that Hardyston and W. Amwell have come to resolution.

He referenced Darlene Jay's correspondence of 9/14/09 which suggests implementing 6 affordable units for very low income. The Township could take money from the Trust Fund and use it to subsidize the very low income units.

On 9/17/09, a pre-argument conference was scheduled. In an effort to prepare, Bob Benbrook, Esq. had it rescheduled to 10/27/09. He plans to contact Hardyston and W. Amwell to see what they did.

Mayor Mach explained that this information is to provide the Planning Board with a "heads up". If there is a resolution that needs to be done with the Planning Board, he will have information at that time. He hopes to have an update next month.

### **Build Out Analysis**

This item has been carried since the 7/20/09 meeting. Chairman Shoemaker suggested the Board review the amended Build Out Analysis for corrections suggested by Board members, to be discussed at next month's meeting.

Mayor Mach reminded the Board that the Build Out Analysis was the result of a push to have 10 acre zoning, or not.

A question of who monitors this arose. The MHL Liaison would have those answers.

### **NEW BUSINESS:**

None

### **PUBLIC PORTION:**

Mary Flynn, Blirstown resident, questioned what the Build Out Analysis told the Board, and is it complete.

Chairman Shoemaker explained that the Board will review it for accuracy, as previously explained, and further discuss it.

**VOUCHERS:**

**Action:** A motion was duly made by Mrs. Waldron seconded by Mr. Herrmann, to approve all escrow and general vouchers, as presented. Roll call vote: Waldron, Becker, Herrmann, Santini, Murray, Seal, Mayor Mach, Sikkes and Shoemaker—yes.

**ADJOURNMENT:**

There being no further business, a motion was duly made by Mrs. Waldron, seconded by Mr. Herrmann, to adjourn at 8:43 pm. Motion was unanimously carried.

Respectfully submitted,

Marion C. Spriggs, Secretary