

**BLAIRSTOWN TOWNSHIP
ZONING BOARD OF ADJUSTMENT
August 9, 2011**

MINUTES

The Blairstown Township Board of Adjustment met in regular session on Tuesday, August 9, 2011 at 7:30 pm at the Blairstown Municipal Building, 106 Route 94, Blairstown, New Jersey. The following Board members were present: Barbara Green, Mark Ohannesian, Charles Anderson, Andrew Straut, Andrew Smith, John Sartori, Mike Repasky, Philip Rivera, and Debra Waldron. Also present were: Board Attorney, Roger Thomas, Board Engineer, Ted Rodman, and Board Secretary, Marion Spriggs.

SALUTE TO THE FLAG: was recited.

ROLL CALL: was taken.

THE SUNSHINE STATEMENT:

Chairwoman Waldron read the following statement:

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

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

Minutes of July 12, 2011 Regular Meeting

Action: A motion was duly made by Mr. Anderson, seconded by Mr. Straut, to approve the minutes of July 12, 2011 Regular Meeting, as written. Roll call vote: Green, Ohannesian, Anderson, Straut, Smith, Rivera, Waldron and Sartori – yes. Repasky abstained.

RESOLUTIONS:

ZB#04-11 NWRHS Bd. of Education – Block 1402, Lot 21.01- Bulk Variance

Roger Thomas explained that 2 modifications were made to this resolution. Page 2 reveals 90 donors. Page 5, Mr. Oakley was added to A-9.

Action: A motion was duly made by Mr. Straut, seconded by Mrs. Green, to approve resolution for **ZB#04-11 NWRHS Bd. of Education** – Block 1402, Lot 21.01- Bulk Variance. Roll call vote: Green, Ohannesian, Anderson, Straut, Smith, Rivera, and Waldron – yes.

ZB#03-11 Joel & Claire Balbi— Block 2003, Lot 25 - 48 Hope Rd - Use Variance

Action: A motion was duly made by Mr. Smith, seconded by Mr. Ohannesian, to approve **ZB#03-11 Joel & Claire Balbi**— Block 2003, Lot 25 - 48 Hope Rd - Use Variance. Roll call vote: Green, Ohannesian, Anderson, Straut, Smith, Rivera, and Waldron – yes.

COMPLETENESS:

ZB#05-11 GigaBeam Acquisition Corp. – Block 2003, Lot 14.01 – 7 Hillview Lane – Use Var.

James Pryor, attorney for the applicant, reviewed Ted Rodman’s report of 8/4/11. Item #1 – telephone # of applicant must be added. Item #4 property lines must be added.

Ted Rodman recommends completion.

Action: A motion was duly made by Mr. Anderson, seconded by Mr. Straut, to deem **ZB#05-11 GigaBeam Acquisition Corp.** – Block 2003, Lot 14.01 – 7 Hillview Lane – Use Var. complete with the above conditions. Roll call vote: Green, Ohannesian, Anderson, Straut, Smith, Rivera, and Waldron – yes.

ZB#06-11 John Clark - Block 801, Lot 1, Lot 2.01 – no road frontage – Permit(40:55 I) 34&35

No one was present for this application. The application was deemed incomplete for failure to submit Certification of Taxes Paid.

Action: A motion was duly made by Mr. Rivera, seconded by Mr. Ohannesian, to deem **ZB#06-11 John Clark** - Block 801, Lot 1, Lot 2.01 – no road frontage, incomplete. Roll call vote: Green, Ohannesian, Anderson, Straut, Smith, Rivera, and Waldron – yes.

PUBLIC HEARING:

ZB#01-11 Frank Giambrone - Block 1802, Lot 5.01, 1 Hoagland Rd – Bulk Variance

Roger Thomas talked with Richard Keiling, former attorney for the applicant, and it was revealed that Attorney Santini is reviewing this application and possibly taking it over. This application will be carried.

ZB#05-11 GigaBeam Acquisition Corp. – Block 2003, Lot 14.01 – 7 Hillview Lane – Use Var.

Roger Thomas informed the Board that this application is for a conditional use variance. He explained that the applicant is seeking to amend the application with a minor site plan. Additional application and escrow fees will be required.

Anthony Suppa, PE, Dewberry, Parsippany, NJ, was sworn in.

James Pryor, attorney for the applicant, explained that the applicant is proposing 2 dishes on an existing tower with antennae, with a small equipment base. He stated there is no immediate plan to expand to other providers. Ted Rodman declared any expansion would require the applicant to return to this Board.

Mr. Pryor showed photo simulations to the Board and revealed there is no change to the land.

Mr. Pryor explained this is a point-to-point, small network transmission, serving the financial industry.

Sam Jay Lawrence, CEO, GigaBeam, Durham, NC, was sworn in.

He explained this is a g-core, high-capacity system which manages “wire in the sky”, long-distance data transmission from computer to computer to conduct business, providing a corridor of energy. Data moves faster and is more secure. It uses one beam to transmit and receive. The towers must be higher than the trees. Focused energy is less than a light bulb or a cell phone.

He revealed they have been in business for 5 years. This is their first application for this type data management system in NJ and very important to them. He explained they have done lots of point to point, with the wireless piece.

Chairwoman Waldron asked what made them pick this particular site. Mr. Lawrence responded the proposed tower’s proximity in their network from where the start to stop points are, the height, and structural integrity of the tower. They are trying to contain the distances between 7 and 12 miles at any point to point.

He explained there are approximately 80 points in this network. Bangor, Pa., Roxbury and Blairstown are a few of the connecting points to get to the middle of the country. Over 50 points have already been installed. The Roxbury application doesn’t have zoning approval on the proposed municipally owned tower .

This portion of the Hearing was opened to the public for questions regarding Mr. Lawrence’s testimony.

The following responses were made to the public’s questions at this time:

- *50 Components have already been installed. 80 is the goal.
- *Installation can be accomplished in 1 – 3 days.
- *Maintenance checks are done twice a year.
- *GigaBeam has no plans to upgrade the private road.
- *If the proposed Bangor or Roxbury applications are denied, no answer can be given pertaining to where GigaBeam will go. This will depend on the denial explanation.
- *Air traffic will not be affected.
- *No visual impact is stated, as the tower already exists.

This section was closed to the public.

Sean LeMons, VP Network Operations, of Huntington Beach, Ca., was sworn in. He has no licenses.

Roger Thomas questioned Mr. LeMons’ credentials. He stated he is not objecting to Mr. LeMons’ qualifications but suggests the Board seek its own radio frequency expert to evaluate.

Attorney Pryor asked to continue.

The antennas are at 152 ft. The tower is at 180 ft. The point to point system will be at 180 ft.. The “beam” starts off at 6 ft. in diameter and spreads potentially to 30 ft.

Attorney Pryor pointed out GigaBeam must be in compliance with FCC rules.

The following exhibits were marked:

Exhibit A-1, Wireless Communications Radio Path Simulation – (narrow focus beam), depicting the corridor of energy above the tree lines for this wireless communications application.

Exhibit A-2, a photo simulation at a height of 1,660 ft. by Dewberry of Parsippany, NJ. (The applicant took this exhibit after the meeting).

Exhibit A-3, Certified Statement indicating effects of projecting radiation power by transmitted signals and facility compliance with Federal and State requirements for exposure to RF emissions.

Chairwoman Waldron questioned if this falls under the 1996 Federal Telecommunications Act, which states once deemed FCC compliant, the issue is pre-empted from Board consideration. Mr. Pryor responded, as far as he can tell, that act only refers to personal communications services. So, this does not fall under the Act. He said the short answer is, while this doesn't fall under the Act in the text, in terms of FCC compliance; he declared, functionally speaking, the end result is very similar regarding terms of interference.

Ted Rodman asked if this was considered a microwave operation. The response was affirmative. He then pointed out the Resolution memorialized on 5/21/01 for PB#03-01 Sprint Spectrum on that tower, reveals on pg. 5 b. and pg. 7 c. 2. "The tower shall contain **no** microwave facilities".

Also, Ted Rodman pointed out the Amended Resolution for PB#03-01 Sprint Spectrum, memorialized on 9/16/02 reveals on pg. 4 b. "the conditions of the prior site plan, are still applicable".

Ted Rodman recommended this application be carried until the next meeting.

Mr. Pryor responded he is not certain "microwave" stated in those resolutions are the same, stating that is a general term in the industry. Mr. Pryor is asking for relief from it.

This portion of the Hearing was opened to the public for questions to Mr. LeMons.

The following responses were made to the public's questions at this time:

*A safety study was not presented, as FCC Rules of Compliance apply, which indicate the proposed system must be safe by human standards. They will provide a copy of their license.

*The microwave output is the same as a Wi-Fi router.

*The risk of living under the degradation of the beam is less than the power of a wall outlet.

This section was closed to the public.

After testimony by Mr. LeMons, it was decided by the Board that a more experienced RF expert be provided to continue this application.

Anthony Suppa, PE, CME, of Dewberry, Parsippany, presented an overview. He stated the area consists of 23 acres. The access is via Hillview Lane. This access road has potholes. The compound is 80' x 55', approximately 4000 sq. ft. He said there are 3 carriers there now, Sprint, Team Mobile and AT & T. GigaBeam is proposing two 6' dishes. He explained they eliminated the 4' x 4'

concrete pad shown on Z-2 Key Map because the cabinet is going on an H frame. There will be no air conditioning or fan. If there is a power failure, there is a standard back up battery and ground circuits can be used until power is restored. The cable bridge will be 8' in the air. There are 4 cable bridges there now at about 8' to 10'.

Ted's report of 8/4/11 was reviewed.

Roger Thomas asked for an analysis so no additional tower would be required from a structural viewpoint to support the fourth and fifth carriers.

Roger Thomas summed it up as follows:

A sub-structural engineer report is needed.

More information pertaining to the categorical exemption will be needed.

He suggests the Board decide whether to retain a qualified RF Engineer.

The prior resolution regarding "no microwaves" needs to be reviewed by Mr. Pryor and Mr. Thomas. Possible relief from that condition must be sought.

Mr. Pryor asked that the Planner, who was present, be granted the opportunity to testify tonight.

Mr. Thomas responded that testimony must wait until the next meeting as the public must have the opportunity to ask questions regarding Mr. Suppa's testimony at the next meeting.

Mrs. Waldron explained the Board is not in a position to make a decision tonight. She explained the public questions are based on each individual testifying. General comments and general questions must be saved until the Public Session.

This application will be carried until the next meeting. No further notice must be given.

CORRESPONDENCE:

NJ Planner – July 2011

OTHER BUSINESS:

None

NEW BUSINESS:

None

PUBLIC PORTION:

This portion of the meeting was opened to the public for comment. There were no members of the public present at this time.

VOUCHERS:

Action: On a motion duly made by Mr. Straut seconded by Mr. Smith, escrow and general vouchers, as attached to these minutes, were approved. Roll call vote: Green, Ohannesian, Anderson, Straut, Smith, Repasky, Sartori, Rivera and Waldron.– yes.

ADJOURNMENT:

The Chairwoman asked the Board for a motion to adjourn.

Action: On a motion duly made by Mr. Smith, seconded by Mrs. Green, and unanimously carried, the meeting was adjourned at 10:10 pm.

Respectfully submitted,

Marion C. Spriggs
Board Secretary