

**BLAIRSTOWN TOWNSHIP
ZONING BOARD OF ADJUSTMENT
February 8, 2011**

MINUTES

The Blairstown Township Board of Adjustment met in regular session on Tuesday, February 8, 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, 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: was read aloud.

REORGANIZATION:

Meeting was called to order by Roger Thomas.

OATH OF OFFICE:

Roger Thomas administered the Oath of Office to Board member, Andy Smith.

“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)”.

At this time Roger Thomas called for nominations for the 2011 Chairperson.

Debra Waldron was nominated as Chairwoman by Mr. Rivera, and seconded by Mr. Straut.

There were no further nominations made for Chairperson.

Action: The nomination for Debra Waldron to serve as Chairwoman was duly made by Mr. Rivera, seconded by Mr. Straut. Roll call vote: Green, Anderson, Straut, Smith, Repasky, Waldron, and Rivera -- yes.

At this time, Mrs. Waldron, as Chairwoman, assumed the Chair, and called for nominations for Vice Chairman:

Philip Rivera was nominated by Mr. Anderson and seconded by Mr. Straut.

There were no further nominations made for Vice Chairperson.

Action: The nomination for Philip Rivera to serve as Vice Chairman was duly made by Mr. Anderson, seconded by Mr. Straut. Roll call vote: Green, Anderson, Straut, Smith, Repasky, Waldron, and Rivera -- yes.

Mark Ohannesian arrived at 7:35 pm.

At this time Mrs. Waldron, as Chairwoman, 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. Straut. Roll call vote: Green, Ohannesian, Anderson, Straut, Smith, Repasky, Waldron, and Rivera -- yes.

Action: The nomination for Ted Rodman, Rodman Associates, to serve as Board Engineer was duly made by Mrs. Waldron, seconded by Mr. Rivera. Roll call vote: Green, Ohannesian, Anderson, Straut, Smith, Repasky, Waldron, and Rivera -- yes.

Action: The nomination for Marion Spriggs to serve as Board Clerk was duly made by Mrs. Waldron, seconded by Mr. Smith. Roll call vote: Green, Ohannesian, Anderson, Straut, Smith, Repasky, Waldron, and Rivera -- yes.

(Appointment of a Professional Planner occurred on 12/14/10.)

Resolution Complying with the Open Public Meetings Act

Action: A motion was made by Mr. Rivera, seconded by Mr. Straut 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. Roll call vote: Green, Ohannesian, Anderson, Straut, Smith, Repasky, Waldron, and Rivera -- yes.

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

Minutes of December 14, 2010 Regular Meeting

Action: A motion was duly made by Mr. Rivera, seconded by Mr. Anderson, and unanimously carried, to approve the minutes of December 14, 2010, Regular Meeting, as written.

Minutes of December 14, 2010 Executive Session

Action: A motion was duly made by Mr. Anderson, seconded by Mr. Straut, and unanimously carried, to approve the minutes of December 14, 2010, Executive Session, as written.

Minutes of December 20, 2010 Special Meeting

Action: A motion was duly made by Mr. Anderson, seconded by Mr. Straut, and unanimously carried, to approve the minutes of December 20, 2010, Special Meeting, as written.
Mr. Repasky abstained.

Minutes of December 20, 2010 Executive Session

Action: A motion was duly made by Mr. Smith, seconded by Mr. Anderson, and unanimously carried, to approve the minutes of December 20, 2010, Executive Session, as written.
Mr. Repasky abstained.

RESOLUTIONS:

ZB#04-10 Carl & Della Darst, Block 2003, Lots 28,29,29.01,31.01-Hope Rd. – Amended Prel. & Fin. Site Plan

The following suggested modifications were discussed, and agreed upon by the Board, and will be added to the final resolution.

- Pg. 4 Blue spruce substituted for white pines
- Pg. 5 2 groupings of trailers @ 8ft. x 45 ft. x 8 ½ ft. tall, 1 trailer @ 8 ft. x 45 ft. x 9 ½ ft. tall
- Pg. 5 The Exhibit demonstrated cars with trailers could traverse a portion of the site but would encroach on the boat storage area.
- Pg. 6 **B.** indicates storage trailers 1 to 11 and 12
C. construction of a chain link fence 6 x 6 ft.
D. 250 ft. x 20 ft. “Miller” buildings
- Pg. 7 It was also suggested that two (2) 45 ft long and four (4) 40 ft. long “Sea/Land” trailers should be located approximately 10 ft. north of the limit of gravel line.”
- Pg. 8 The proposed 6 x 6 ft. fence would violate that provision.
- Pg. 10 **1.** Phase II is extended until October 31, 2011. The balance of the phasing plan remains in effect.
A Board Member, (not Mary Flynn, a resident), noted there is a note on sheet 5.
- Pg. 11 **5.** The plans shall be revised to relocate two (2) 45 ft. long trailers and four (4) 40 ft. trailers.
7. The berm should be worked out between applicant engineer and Ted Rodman.
- Pg. 12 **13.** Trailer on Lot 29 is not to be used for residential purposes.
- Pg. 13 **23.** Sheets 3 and 5 reflect a 25 ft. setback.

Action: A motion was duly made by Mr. Rivera, seconded by Mr. Anderson, to approve **ZB#04-10 Carl & Della Darst**, Block 2003, Lots 28,29,29.01,31.01-Hope Rd. – Amended Preliminary & Final Site Plan, with the aforesaid modifications. Roll call vote: Ohannesian, Anderson, Straut, Repasky, Rivera and Waldron – yes. Green and Smith abstained.

CONTINUANCE OF AN EXTENSION:

ZB#05-07 New Cingular Wireless, Blk 301, Lot 3 & 3.01, 117 Walnut Valley Rd. – Continuance of Min. Site Plan/Bulk Var.

Michael Levine, Esq. of Day Pitney, appeared on behalf of the applicant. He reviewed, that in January, 2008, the Board granted use variance approval, (2nd principal use), to the applicant to co-locate antennae on an existing GPU tower. The applicant obtained a building permit. There was no funding available, so the site has not been constructed.

Funding is currently available and the applicant wishes to build it and get it on air by year end. GPU will only take their towers out of service 2 times a year in spring and fall.

The applicant is asking for an extension of that approval until 1/8/12.

Roger Thomas pointed out, pursuant to the Ordinance and Land Use Laws, there is nothing changed that would warrant any further consideration.

Ted Rodman stated that the existing conditions would still be applicable.

This portion was opened to the public. There were no members of the public present.

Roger Thomas suggested if the Board so desires, they can grant approval for a 2 yr. extension, 1 year from today's date, through 2/8/12, with all the conditions of the prior approval remaining in force and effect.

Action: A motion was duly made by Mr. Rivera, seconded by Mr. Anderson, to grant an extension, 1 year from 2/8/11 through 2/8/12 with all the conditions of the prior approval remaining in full force and effect. Roll call vote: Green, Ohannesian, Anderson, Straut, Smith, Waldron and Rivera – yes.

COMPLETENESS:

None

PUBLIC HEARING:

ZB#05-10 Stuart Roberts, Block 1707, Lot 14.01, 131 Mt. Hermon Rd. – Minor Subdiv.& Use Var.

Richard Keilng, Esq. appeared on behalf of the applicant.

Dan Yuhas, licensed PP and licensed surveyor, of Blirstown was sworn in.

Mr. Keiling revealed that this application was originally submitted to the Planning Board. It is for a minor subdivision to create 2 new lots. He noted in remainder lot 14.01, there is a main dwelling and a smaller carriage house. He explained this intensification of 2 dwellings on 1 lot has resulted in this now coming before the Board of Adjustment.

He pointed out the property consists of approximately 82 acres on the corner of Mt. Hermon and Union Brick Rds. They are proposing Lot 14.02 of approximately 18 acres. The middle Lot
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14.01 consists of - 33 acres where all the buildings are, i.e. house, carriage house, barn etc. The last newly proposed Lot 14.03 is to be 30 acres and has a cell tower on it.

Lot 14.02, along Union Brick Rd., has a flag stem. There is a 50 ft. wide strip with 2 driveways. Mr. Keiling stated that years ago when the subdivision was done for Lots 15.01 and 16.02, the intent was to have a shared driveway. There was a driveway maintenance agreement.

They are suggesting when the frontage on the 50 ft. flag stem is combined with the area of 272 ft. on Lot 14.02, there is about 320 non-contiguous ft. Mr. Keiling commented the question is whether the criteria of 300 ft. frontage is met.

Mr. Yuhas revealed the original proposed lot line was moved to avoid conflict with the neighbors, regarding repairs on the dam.

Mr. Yuhas commented there is an existing farm lane which is about 7 or 8 ft. off the property line. The Ordinance calls for 10 ft. He added shifting it to comply, could cause problems with wetlands.

Mr. Keiling stated residences on Lots 15.01 and 16.02 use the flag stem as a driveway access. He said if the Board would allow access, an arrangement would be made where all 3 properties would share the first 150 ft. and the back lot would share the majority of it.

Roger Thomas questioned if the applicant is abandoning the farmland access. Mr. Keiling responded no, that farmland access would not be used as a driveway to service a residence. Mr. Keiling revealed that the applicant would be willing to put in a deed restriction stating the farm lane would not be used for servicing any single family residence. Ted Rodman suggested this be a condition.

Regarding Item #1 of Ted Rodman's report dated 1/7/11, Mr. Yuhas stated there will be no further subdivision on the property stating fencing would be affected. The accessory buildings would wind up on the parcel of land on which the caretaker's house is located.

Regarding Item #4, Richard Keiling explained that what must have happened, was the cell tower located their pad etc. outside the confines of what was previously granted. Ted Rodman pointed out the entire length of the access easement is over. Richard Keiling revealed the length of the driveway is over 1,000 ft. and is 15 ft. wide. He suggested a corrected deed needs to be done. Mr. Yuhas agreed to include the original description in the new legal description, with the cell tower's approval, along with changes on the maps.

Mr. Yuhas pointed out approval will not have any impact on property values in that area. Rt. 80 is behind the property. He indicated 2 dwellings remaining on the property will have no negative impact. He explained the care taker house would advance the idea of agriculture to better manage farming. This property was part of a much larger farm.

Debra Waldron requested a copy of the deed, the revised map, and a letter from the cell tower company stating they are aware that the change has been made, and agree with it.

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Roger Thomas explained that the map doesn't affect the intent and purpose of what was originally granted, which was to provide access from point A to point B, and have an equipment shelter area.

Richard Keiling agreed to send a copy of the corrected deed to the Construction Official.

Richard Keiling revealed that he received a phone call from a neighbor inquiring whether the new proposed Lot 14.02 would be sharing in the cost of maintenance. He responded affirmatively. Roger Thomas suggested the old agreement must be revised and signed. Richard Keiling declared the new agreement would include Lots 14.02, 16.02, and 15.01. It must then be submitted to Ted Rodman and Roger Thomas.

Ted Rodman pointed out that the owner has not agreed that he would not further subdivide Lot 14.01.

Roger Thomas revealed that it is uncertain whether this Board could impose a deed restriction. He pointed out that if the original lot is down to approximately 33 acres, if the owner returns, the history of the constant decreasing may have bearing upon a further sub-division. He said the argument by Mr. Yuhas for this application, becomes somewhat strained with regard to the next application.

Roger Thomas agreed to include as a finding, not a condition, in the resolution, what the lot was originally, (see bottom. Pg. 5), as guidance for future zoning boards.

This portion of the Hearing was opened to the public.

John Novi, 117 Mt. Hermon Rd., Blairstown, Lot 10.03, was sworn in. He questioned whether there would be a dwelling on the cell tower lot. The response was no. He asked when the property is sold, what would be the access route to get to the house.

Dan Yuhas responded - the existing driveway for the cell tower. He said it would become a common driveway. Mr. Novi replied, it is nothing but an open field, not a driveway.

Ted Rodman explained that it is not a separate lot but an easement on which to locate the cell tower. Ted stated the driveway that goes up there now, is for the cell tower only. He explained if there was a dwelling that went on that lot, it would probably go anywhere along the frontage there.

Roger Thomas pointed out that if there is going to be a house, there would have to be a Driveway Access Permit. The Building Official would have to make sure the driveway is not full of weeds, and site distance would have to be reviewed at an administrative level.

Roger Thomas recommended the motion to include Ted Rodman's comments #4, 6, 7, 9, 10, 11 and 12 so that they are incorporated as part of any access, and that the granting of the variances would be incorporated in the resolution.

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Action: A motion was duly made by Mr. Anderson, seconded by Mr. Straut, to approve ZB#05-10 Stuart Roberts, Block 1707, Lot 14.01, 131 Mt. Hermon Rd. – Minor Subdiv.& Use Var. , with the aforementioned conditions. Roll call vote: Green, Anderson, Straut, Smith, Rivera and Waldron– yes. Ohannesian – abstained.

CORRESPONDENCE:

PB Mins. of 12/20/10

1/10/11 ltr. to Mayor Mach from Richard & Maxine Wallingford re: **ZB06-07 New Cingular, 1 Hilltop Ln.** – _Access Agreement

Roger Thomas declared the BOA’s involvement with this matter is over. This letter should be directed to the Zoning Officer or Building Official.

NJ Planner Dec./ Jan.

OTHER BUSINESS:

2011 BOA Budget (vote)

For the record, Chairwoman Waldron, indicated Twp. Committee requested a 5% reduction from 2010 and this board accomplished that.

Action: A motion was duly made by Mr. Smith, seconded by Mr. Straut, to approve the 2011 BOA Budget. Roll call vote: Green, Ohannesian, Anderson, Straut, Smith, Repasky, Rivera and Waldron– yes.

Last Frontier-ZB#02-06 - Ltr.1/5/11 from R. Thomas, Esq. to D. Santini, Esq. re: Whispering Woods Hearing

Roger Thomas revealed there appears to be a resolution of the matter. He stated he will submit an Order to Mr. Santini and then to the Judge. He agreed to send a signed copy to this board. A hearing will follow.

2010 BOA Annual Report

Roger Thomas reviewed this report. He pointed out that none of these matters call into question any of the zoning ordinances or point to a trend that needs to be addressed by amending the Ordinance.

He stated that it is of note that, 2 of the applications involved buildings that had been built without appropriate permits. He declared that is an enforcement issue and not the subject of the Board’s jurisdiction. He commented that should this become a trend in the future, there should

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be some comment made to the Township Committee as to stepping up methods of enforcement, should that become necessary.

Chairwoman Waldron pointed out that the Cell Tower Ordinance, 1 use per property, was forwarded to the Planning Board.

Marion Spriggs suggested a modification to pg. 2, ZB#03-10, so that the report would read “HC zone” instead of HZ zone. Roger Thomas agreed to make that modification for forwarding to the Township Committee.

Action: A motion was duly made by Mr. Anderson, seconded by Mr. Rivera, to approve the **2010 BOA Annual Report**. Roll call vote: Green, Ohannesian, Anderson, Straut, Smith, Repasky, Rivera and Waldron– yes.

NEW BUSINESS:

None

PUBLIC PORTION:

There were no comments from the public, as no members of the public were present, at this time of the meeting.

VOUCHERS:

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

ADJOURNMENT:

The Chairwoman asked the Board for a motion to adjourn.

Action: On motion duly made by Mr. Straut, seconded by Mr. Anderson, and unanimously carried, the meeting was adjourned at 9:20 pm.

Respectfully submitted,

Marion C. Spriggs
Board Secretary