

**BLAIRSTOWN TOWNSHIP  
ZONING BOARD OF ADJUSTMENT  
July 12, 2011**

**MINUTES**

The Blairstown Township Board of Adjustment met in regular session on Tuesday, July 12, 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, Philip Rivera, John Sartori and Debra Waldron. Mike Repasky was absent. 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.

Ted Rodman arrived at 7:32 pm.

**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)”.

**OATH OF OFFICE:**

Oath of Office was administered to John Sartori, as Alternate #2.

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

Minutes of June 14, 2011 Regular Meeting

**Action:** A motion was duly made by Mr. Anderson, seconded by Mr. Straut, to approve the minutes of June 14, 2011 Regular Meeting, as written. Roll call vote: Green, Ohannesian, Anderson, Smith, Rivera, and Waldron – yes. Straut and Sartori abstained.

**RESOLUTIONS:**

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

Roger Thomas asked this matter be deferred until the August 9, 2011 meeting as the resolution is not ready.

**ZB#02-06 Last Frontier** – Block 2003, Lot 23 – Hope Rd. – Use Variance

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Roger Thomas reviewed suggested modifications to the resolution and he will incorporate the suggested changes. Dominick Santini, attorney for the applicant, stated the resolution calls for the introduction of A-3 which is a copy of the Deed of Easement granted by the State of New Jersey. At this time, he offered it to the Board as Exhibit A-3 reflecting restriction regarding more than 1 dwelling.

Mr. Santini stated the next issue, which was not part of the consent agreement, regarding pg. 3 Item B, last line. “No left turn sign at the driveway exit.” Roger Thomas pointed out that language is carried forward to page 6 as part of the conditions. Mr. Santini declared the additional wording, “in a location acceptable to the Township Engineer”, was not part of their consent order. Therefore, he objects to that provision. His concern is Ted Rodman is going to approve a location that the County could turn down, in case the stop sign is in their ROW.

Mr. Santini would want a representation that it would not be in the County ROW. Ted Rodman agreed with that.

Roger Thomas declared that having been said, he would offer the resolution, as amended, for the Board’s consideration.

**Action:** A motion was duly made by Mr. Straut, seconded by Mr. Anderson, to approve the modified resolution **ZB#02-06 Last Frontier** – Block 2003, Lot 23 – Hope Rd. – Use Variance. Roll call vote: Green, Ohannesian, Anderson, Straut, Smith, Rivera, and Waldron – yes.

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

Richard Keiling, Esq., appeared on behalf of the applicant. He pointed out this is not on the Agenda but explained what happened. He said last month there were other matters which could’ve pre-empted this application. Mr. Keiling informed the applicant that this application may not be heard. Mr. Giambrone went on vacation. The application was presented for Hearing. It is Mr. Keiling’s contention that key testimony from the applicant was not heard, and therefore he is asking the Board to re-open this application. He will have Mr. Giambrone present the key testimony.

Mr. Keiling has spoken to Roger Thomas and because there has already been a determination, additional notice to adjoining property owners within 200’ would be necessary. Additionally, Public Notice would have to be run in the newspaper.

Roger Thomas suggested that the Board reopen this application since testimony was not given, due to circumstances beyond his control. He confirmed that notice must again be given.

**Action:** A motion was duly made by Mr. Rivera, seconded by Mr. Anderson to approve re-opening application **ZB#01-11 Frank Giambrone** - Block 1802, Lot 5.01, 1 Hoagland Rd – Bulk Variance, for the applicant to testify. Roll call vote: Green, Ohannesian, Anderson, Straut, Smith, Rivera, and Waldron.– yes.

**COMPLETENESS:**

(The following application was slated to be on the 8/9/11 BOA Agenda. )

**ZB#05-11 Gigabeam Acquisition Corp.** – Block 2003, Lot 14.01- 3 Hillview Ln. – Use Variance

James Pryor, 262 E. Main St., Rockaway, NJ, attorney for the applicant, requested having Completeness and Hearing at the August 9, 2011 BOA meeting.

Roger Thomas pointed out that he has spoken with Mr. Pryor regarding this wireless carrier application. It is his recommendation that if the Board deems the application complete, a hearing should immediately follow, contingent upon what other matters are before the Board.

Chairwoman Waldron asked the Board if there were any objections. None were heard.

Roger Thomas informed Mr. Pryor to provide notice and anticipate a hearing on 8/9/11.

**PUBLIC HEARING:**

**ZB#04-11 NWRHS Bd. of Education** – Block 1402, Lot 21.01, 10 Noe Rd.,- Bulk Variance

James Fox, of Morris, Downing, Sherred, attorney for the applicant, explained this application is presented to upgrade the existing sign from 1978. He said they have asked for a bulk variance because it is larger than the existing sign.

The following were sworn in collectively for this application:

Brian Fogelson, NWRHS School Superintendent, 10 Noe Rd., Blairstown  
John Maxman, owner of JHM Signs, 199 Strykers Rd., Phillipsburg  
Andrew Oakley, Communications Director for PIE, 33 Gaisler Rd., Blairstown  
Bruce Hanelt, Pres. NW Bd. of Ed, 40 Countryside Rd., Columbia  
Eugene Woznicki, Pres. Blairstown Rotary, and member of the NW Bd. of Ed, 2 Shannon Ln., Blairstown

The following Exhibits were marked:

- A-1 Blk/wht. Sign detail from JHM signs
- A-2 Color photo – Sample of Warren Hills digital sign
- A-3 Color photo - NWRHS PROPOSED DIGITAL SIGN – 3/30/11
- A-4 Color photo – NWRHS digital sign – 12/10/10
- B-1 NWRHS memo – 6/13/11 indicating corporate sponsors names would appear on board
- A-5 Regulation of Electronic Sign Zoning Information (16 pgs.)
- A-6 Rotary Club letter supporting digital sign – 6/17/11
- A-7 Blairstown Business Assoc. letter supporting digital sign – 6/8/11
- A-8 Partners In Education support statement 7/12/11

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Dr. Fogelson testified they are proposing to change their outdated sign for a modern, digital one. He said it is part of their mission to reach out to the community. They desire to transmit community messages, as well as school-related messages. He noted the school would control these messages, including the number of messages per day.

He declared the proposed sign would not constantly scroll, move, or flash messages. He understands some people believe this type of sign is a distraction since it is on a state highway. He checked with the school's state trooper and he did not find a lot of statistics recorded about accidents relating to these type signs. Mr. Fox pointed out the DOT was notified weeks ago, and no response was received.

He revealed the sign is almost fully funded by approximately 90 donors. He revealed that he is a member of Blairstown Rotary which discussed the sign at their meetings. The school is a member of the Blairstown Businessmen's Assoc. and he has attended those meetings on the school's behalf. In his opinion, he stated approval of the sign was unanimous.

Andrew Smith, a board member, pointed out for the record, that not everyone approved it.

Chairwoman Waldron pointed out the Warren Hills sign is representative of what is desired but the area in which it is located is different. She also visited Hunterdon Central H. S. to look at a similar sign which changes every 3 to 4 seconds. She declared she does not want to see that. She is concerned about new driver distraction, the proximity of PNC Bank, and The Auto Shop, plus a blind corner from Cobblewood Rd., and a speed limit of 50 mph.

She expressed concern that the Board's approval will change when it gets back into the applicant's hands, for instance, when Dr. Fogelson is no longer there. Mr. Fox responded that is always a trade off in terms of controls and policies which can be clearly stated in any resolution.

Roger Thomas declared that he respects Dr. Fogelson's comments that some of the policies will be discussed by his board. Mr. Thomas said his point is, "There are any number of policy determinations that, quite frankly, this Board has control over, and this Board will be telling the School Board what it can and can't do".

Mr. Fox responded if this were not a digital sign, the school board could put whatever they wanted on the sign. They are here because of the Ordinance. Mr. Fox continued, the school board felt strongly about this sign, recognizing freedoms they would have otherwise had.

Mr. Smith, a Board member, questioned if Dr. Fogelson thought of turning off the message while students are arriving and departing school, as it is a distraction. Dr. Fogelson responded, "No, it is a community sign as well, and many community members are commuting to work at that time".

Mr. Smith supports the idea but not the community aspect.

Chairwoman Waldron pointed out that the 2nd driveway was opened only recently. Her concern is for, not just the students exiting that driveway, but also the people crossing, coming from the bank, and traffic in both directions.

Ted Rodman asked for clarification of the static, scrolling and travelling. Dr. Fogelson responded the message will be static, then it will change. It will not scroll or flash but stay for a period of time, until the next message appears.

At this point, after Dr. Fogelson's testimony, questions from the public were invited.

Mary Flynn, 3 Conrad Ct., questioned if Dr. Fogelson is asking the Board to approve something the Board of Education hasn't approved yet. He responded they are asking the Zoning Board for a variance to erect an additional sign.

John Maxman, of JHM Signs, Phillipsburg, testified he has been there since 1999. His company will provide the proposed sign. They have put up 15 digital signs to date. They are located in schools, firehouses, and major highways. He said there is no report to date from the US Sign Council that digital signs cause traffic problems.

Mr. Maxman pointed out the sign can be controlled from a desk top computer. The sign is guaranteed for 1 year and parts for 5 years. It is the easiest to repair.

Ted Rodman discussed the following: Level #1 – static, no transition. Level #2 – static, fades into transition. Level #3 – traveling and scrolling. Level #4 – full animation. Dr. Fogelson stated Level 1 or 2 sounds like what they are proposing.

At this point, after Mr. Maxman's testimony, questions from the public were invited.

Rosalie Murray, Blairstown resident, questioned if the size of the lettering could be varied according to the size of the message. Mr. Maxman responded "yes".

Mr. Hanelt, President of the Board of Education, testified the Bd. of Education reviewed this project on a number of occasions, and a resolution was adopted to move forward with this project. Mr. Hanelt revealed the outcome vote of that resolution was 8 positive votes to 1.

Mr. Hanelt revealed the sign will not be controlled by the Superintendent but by the school board policy. That policy will be set in conjunction with the BOA's wishes. If changed in future, the BOA will be advised.

For the record, Chairwoman Waldron explained where the Board is coming from with regard to its policy.

She explained when an application comes before the Board for a variance, they do so with a blueprint and an outline for each use. They argue its inherent beneficial use to the community. She pointed out, these issues must be hammered out, with regard to the specifics, drawing to a conclusion. If it is left to their board, and their board doesn't agree, and desires changing it, the BOA Minutes 7/12/11

Board of Adjustment wants to know what it is approving, that is mutually agreeable, with NO misrepresentation.

She declared it is not the Board of Adjustment wanting control but rather they want to see the end result. Further she commented, the Board doesn't want to see a flashing, scrolling message sign that has been authorized by Dr. Fogelson's successor someday.

Mr. Hanelt agreed. He stated that once the school sets the policy in conjunction with the BOA, that policy remains. He said maybe the policy will be that they have to go to the BOA again for any desired changes.

Mr. Fox suggested the Board should recognize the Board of Education is making concessions coming here because they want it to be right. He remarked they could have done it the other way.

Roger Thomas retorted, "Respectfully, it is because your client chose not to do it the other way, that you are required to be here". Roger Thomas continued, "You are not doing it as a free choice, you are doing it because the Ordinance requires you to do that, which then provides discretion on the part of the Board as to the activities that are contained within that use".

Mr. Fox responded the key word is "discretion". He said "we think most of the issues could be resolved this evening." He declared the way he's done this in many land applications, he suggests, "of much more import than this", is to take a brief recess. Then return with what they are willing to do, and from there iron out a resolution.

Before the recess however, Mr. Fox wanted to finish the testimony.

Mr. Hanelt stated that as a board, they are looking to limit the messages to what's pertinent to the content of the school itself and to make the community-based really important issues, accessible.

Roger Thomas declared this BOA will be setting the conditions for which the sign will be utilized. Then the Board of Education would have to set its policy in accordance with those conditions. Mr. Fox replied they can always come back with an amendment if it's unworkable.

Mr. Fox's final question was, "Who gets hurt, if the sign indicates the Girl Scouts are selling cookies?" A board member stated that it is a driver distraction. The Chairwoman and Vice Chair confirmed this. Roger Thomas also replied, "The driver may get hurt".

Mr. Smith, stated for the record, the Board has to be careful in setting precedents because there are banks and other businesses in town similarly interested in signage. He pointed out that if the Board allows a school sign to advertise, it makes the Board's job tougher when others seek the same. Chairwoman Waldron noted, such applications have been turned down in the past.

At this point, after Mr. Hanelt's testimony, questions from the public were invited.

Robert Castelucci, a Blairstown resident, pointed out his concern is with the students, with very little driving experience, exiting a driveway onto a main highway. He questioned if the sign could be turned off before school starts, and at the time of dismissal.

Eugene Woznicki, a member of the Board of Education and President of Rotary testified. He explained that whenever Rotary wants something on the sign, they petition the school. There is a filtering process. He explained two of the major community service groups at the high school are subsets of Rotary and the Lions Club, namely the Leo Club and Interact Club. Many events are comingled. Thus, there is a joint meaning of a community event. It is the events where the school children are involved, that are advertised.

There were no questions from the public for Mr. Woznicki.

Mr. Oakley, is Community Director of PIE (Partners in Education). He testified that he is in charge of writing press releases sent to the local media. There are 150 active members who have totally supported the sign during the discussions at past meetings. He stated the PIE support statement of 7/12/11 acknowledges this support.

Mr. Anderson, a Board member, questioned lowering the sign by 3 ft. by eliminating the donor recognition part at the bottom. Mr. Maxman doesn't recommend doing that because of the existing fence. He explained there would be less sign square footage with that eliminated.

Ted Rodman suggested the size should be mentioned in the resolution. Roger Thomas confirmed the height restriction is 15 ft. Mr. Maxman stated they are at 14.5 ft. Dr. Fogelson suggested 2 support posts to replace the donor portion which acted as support.

This portion of the hearing was opened to questions of the public.

Rosalie Murray questioned if the fence could be moved to make the sign easier to read. Mr. Fox explained if the fence were moved behind, it would have no effect. The height of the sign remains exactly the same.

This portion of the hearing was opened for final comments by the public.

Rosalie Murray, Heller Hill Rd., was sworn in. She commented, as a former West Caldwell school board member, she understands the viewpoint of this school board however, she finds the sign difficult to read, even now - in a static state. She explained if it were a lower sign it would be safer to read. She feels moving the fence and lowering the sign would be more desirable for safety and it would be more readable. Mr. Maxman indicated moving it up 2 ft., puts it in a perfect visual position that it can be seen both ways.

Finally, Mrs. Murray suggested the message not be changed in less than 5 minutes.

This portion was closed to the public.

Mr. Thomas presented his comments to the Board. He agrees there are 2 bulk variances, not D variances as he originally thought. It is in the R-5 zone. There are a series of uses in that zone and one is a school. It is a quasi-public use for an educational center. He explained approval requires a majority of those voting.

He advised the Board to discuss usage for school only, or community use as well. He informed them they have the right to discuss what they think is an appropriate policy, unless they wish to defer that to the policy of the Board of Education

Mr. Fox stated they are a conforming sign. Mr. Thomas disagreed on the basis of 19:516 D. He said it is a flashing sign. Mr. Fox responded this puts them in the category when a school board comes before a Board, it doesn't need a use variance. Mr. Thomas disagreed, he explained when a school board does something that is in the scope of its educational background, i. e. expansion, they would come before the Planning Board and make an informational presentation. However, it is his understanding, that if part of that expansion includes a setback variance, they would come before the Planning Board and get a setback variance. Here, they are only asking for a variance, so they are correctly before the BOA. He ended by saying, "In this particular case, they are required as a Board of Education to come for the variance".

Mr. Fox requested a recess at 9:42 pm.

After the Board's discussion, Roger Thomas summed up conditions as follows:

No sponsorship named on the sign

Community activities would be authorized if the event is for the benefit of the community.

Message would be static, for not less than 3 minutes

No advertising of business

Sign would be limited to levels #1 – static, no transition & #2 – static, fading into transition

Sign would be prohibited from levels 3 & 4, which is scrolling, animation etc.

Lettering would be 5"

Message would have a maximum of 3 colors, with only 1 color per line

There would be 1 thought message (Mr. Thomas will work on wording)

No general, student, or other achievement is authorized for the sign

There would be a deferral to the Board of Education to authorize unique award events for teacher, student or school

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The sign will be held in static form for 30 mins. before school starts and 30 mins. after school is dismissed

Sponsor support base would be eliminated and replaced by 2 posts

Sign would be off from 11pm to 6am, except for emergencies

There would be an “as built” provided

Chairwoman Waldron pointed out the Board agreed to 5 mins., the applicant is saying 3 mins. Roger Thomas stated the mover can modify these things.

Roger Thomas clarified, the approval for the sign will be as shown on Exhibit A-3, with the exception that the base will be eliminated and replaced by 2 posts.

**Action:** A motion was duly made by Mr. Rivera to approve **ZB#04-11 NWRHS Bd. of Education** – 1402, Lot 21.01, 10 Noe Rd.,- Bulk Variances with the aforesaid conditions, with **NO** exceptions. It was seconded by Mr. Smith. Roll call vote: Green, Ohannesian, Anderson, Straut, Smith, Rivera, and Waldron.– yes.

**CORRESPONDENCE:**

PB Mins. of 5/16/11

6/8/11 Blairs Bus. Assn. ltr. to NWRHS re: proposed digital sign

6/17/11 Blairs. Rotary Club to NWRHS re: proposed digital sign

**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. Anderson, escrow and general vouchers, as attached to these minutes, were approved. Roll call vote: Green, Ohannesian, Anderson, Straut, Smith, Rivera, Sartori and Waldron.– yes.

**ADJOURNMENT:**

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The Chairwoman asked the Board for a motion to adjourn.

**Action:** On a motion duly made by Mr. Sartori, seconded by Mr. Anderson, and unanimously carried, the meeting was adjourned at 10:30 pm.

Respectfully submitted,

Marion C. Spriggs  
Board Secretary