

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

MINUTES

The Blairstown Township Board of Adjustment met in regular session on Tuesday, March 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, Philip Rivera 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.

THE SUNSHINE STATEMENT: was read aloud.

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

Minutes of February 8, 2011 Regular Meeting

Action: A motion was duly made by Mr. Straut, seconded by Mr. Anderson, to approve the minutes of February 8, 2011 Regular Meeting, as written. Roll call vote: Green, Ohannesian, Anderson, Straut, Smith, Waldron and Rivera – yes.

RESOLUTIONS:

Roger Thomas apologized for not having the following resolutions to the Board in advance. He promised to provide resolutions in advance of future meetings.

He explained there are some suggested modifications.

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

Roger Thomas read the resolution with the new modifications to the Board, before they took the following action.

Action: A motion was duly made by Mr. Rivera, seconded by Mr. Anderson, to approve the modified resolution for **ZB#05-07 New Cingular Wireless**, Blk 301, Lot 3 & 3.01, 117 Walnut Valley Rd. – Continuance of Min. Site Plan/Bulk Var., granting an extension, through 2/8/12. Roll call vote: Green, Ohannesian, Anderson, Straut, Smith, Waldron and Rivera – yes.

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

Mr.Ohannesian stepped down for this application.

Richard Keiling, attorney for the applicant, reviewed that there is a monopole on one of the lots that needed a new description. He explained that on pg. 6 of the Resolution, Item #5, the easement in Lot 14.01 described in the metes and bounds, should be Lot 14.03. That’s where the monopole was. He spoke with Ted Rodman about it and Ted Rodman stated he didn’t get the information to Roger Thomas in time. Otherwise, Roger Thomas remarked the resolution is fine. Ted Rodman agreed.

Roger Thomas reviewed the newly proposed modifications to this resolution with the Board before it took the following action. `

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

COMPLETENESS:

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

Richard Keiling, Esq. appeared on behalf of the applicant. The applicant is seeking a variance for an oversize garage. He explained that his client lives on a 3.02 acre piece of property where his home is located. The footprint of the house is 2,500 sq. ft. He wishes to add a 2,600 sq. ft. barn/garage for his motor home, boat and other “toys”. He pointed out the Ordinance provides for 40% of the size of the primary dwelling, which is approximately 1,200 sq. ft.

There was a question of grandfathering, if the house was built before a specific date. Richard Keiling stated he will find out what the date is.

Richard Keiling reviewed Ted Rodman’s report of 3/4/11.

He declared the taxes are current and has provided certification of same.

He is asking that the Board deem this complete, so he can advertise.

Ted Rodman recommended this also.

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

INTERPRETATION:

ZB#02-11 Allied Biological, Inc. Block 1505, Lot 1, 51 Vail Rd.

Kevin Hahn, Esq. appeared on behalf of John Ursin, Esq. of Courter, Kobert & Cohen, Hackettstown. Kevin Hahn represented the applicant. He revealed he did not get a copy of Ted Rodman's 3/4/11 report. Ted Rodman indicated that he sent it to the applicant and also to Mr. Ursin. He immediately provided Mr. Hahn with a copy. Ted Rodman clarified that his report will be changed to reflect the VN zone.

Roger Thomas explained to the Board this is a different type of application. He further stated that the Board will be asked to interpret whether or not the proposed use is similar to what exists there now.

He pointed out that Ted Rodman's report of 3/4/11, paragraph 2, indicates the current use is for an antique auto restoration business acquired by the present owner in 1986. Prior to that, the report reveals it was a road construction/paving business. Roger Thomas indicated that Ted Rodman was unable to find any variance approval for either of the prior uses. So, Roger Thomas pointed out, there are 2 issues. The first is, if what is being proposed tonight, is similar to past usage. Secondly, is what this property has been used for, a valid non-conforming use?

Attorney Keiling, who represents the current owners, was in the audience. He has spoken to the current owner's mortgage holder. He revealed it is a private mortgage. It is his understanding that they have been paying the real estate taxes as part of their mortgage. He said if the current owner did not pay the taxes, then the mortgage holder would. That was one of the conditions. Attorney Keiling is of the opinion the taxes are current but paid by someone else. Roger Thomas responded, "It sounds like they are not paid", suggesting more information be gathered on this. Marion Spriggs, indicated she had not received the Certification That Taxes Are Current form.

Mr. Hahn stated that his client is a licensed professional and he will have him testify as to his credentials. He said he is a professional Certified Lake Manager. Mr. Hahn pointed out that Mr. Sullivan is proposing offices where he will store certain materials and operate his business. Mr. Hahn revealed they are requesting an Interpretation that the applicant does fall within the definition of a professional office.

Roger Thomas gave the Board the context of how the Ordinance defines "professional" office.

Glenn P. Sullivan, CLM, of 580 Rockport Rd., Hackettstown, was sworn in. He is President of the firm which is an Environmental Consulting and Service firm. His degree is in Environmental Studies. He has been in the business 16 years. He stated that he has a national certification as a Lake Manager. There are 300 in the country. Most of his employees are biologists or environmental scientists.

Mr. Sullivan stated that he does limited environmental consulting regarding endangered species. He also does wetland consulting and service work. He stated almost all the work requires permitting through the DEP. His duties specifically entail lake management, water quality

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monitoring and assessment, aeration systems, plant and algae control, fisheries management, including relocation of fish.

Most of the work is done from a boat. The smallest is a 10 ft. boat and the largest is 19 ft. They are trailered boats. He has one hydro rig, which is a barge that digs up weeds from the bottom and moves them out. He has 10 boats: 8 operational boats, 1 pontoon boat, and 1 hydro rig. He also has 4 amphibious vehicles. Mr. Sullivan stated that all but 3 of the operational boats and amphibious vehicles would be inside the steel-framed, fabric-covered, temporary structure, on the grass. The pontoon boat and hydro rig would be outside, also on the grass.

Chairwoman Waldron questioned where the boats are currently stored. Mr. Sullivan responded they are in a 20 ft. x 30 ft., steel-framed, fabric covered, temporary structure in Mansfield. He would propose moving it to the property being discussed. At this time photos were circulated for review. She asked if they would be stored with gasoline inside. Mr. Sullivan responded in the summer the gas is stored in the boats but is removed in winter. She stated concerns with water pollution, leakage, damage or tampering, which could have an effect on the ground water and well water.

The applicant confirmed that he is currently under contract to buy this property. He will add some bushes for screening.

He uses aquatic herbicides and algaecides stored in plastic 2 ½ gal jugs, which are triple washed in the lake after usage and later recycled. He also uses copper sulphate in 50 lb bags. He would construct a wall to segregate that area. Chairwoman Waldron asked for a copy of The Community Right to Know Report, and a statement from the Fire Department indicating safety approval. Mr. Sullivan agreed to provide the information and stated only the copper sulphate has to be listed. He stated all other products are DEP/EPA approved.

For the record, Ted Rodman confirmed that the property is in the VN zone, not the VR zone, as indicated in his report.

Roger Thomas declared the interpretation is whether it meets the permitted use.

Mr. Sullivan noted there are 9 employees in winter and in summer 5 or 6 interns are added. Most of the business is in the summer.

Mr. Sullivan revealed that 7 pickup trucks would be parked outside overnight, in the existing gravel lot. He does not envision more than 17 vehicles on site at one time; 15 of which he anticipated on parking, plus 2 trucks that are not out that day.

Roger Thomas indicated the issues that may come up in addition to the Interpretation, are whether or not there is sufficient parking, and whether or not the outdoor storage is authorized without a waiver or variance.

This portion of the hearing was opened to the public.

Mary Flynn, a Blairstown resident, questioned where the triple washing of the chemical containers will be done. Mr. Sullivan responded they are cleaned in the lake itself. Nothing will be done in the shop.

This portion was then closed to the public.

There were no questions from the Board.

Roger Thomas summed it up by stating the issue is very limited. It is whether or not the proposed use is in accordance with the VN district, in particular, the professional office. He explained the Ordinance definition in Sec. 407(4) indicates physician, surgeon, minister, architect, engineer, accountant and other recognized professionals.

Roger Thomas continued, that Mr. Sullivan's testimony revealed that he is a licensed professional in an area of lake management. He also does environmental and wetlands consulting.

He stated the initial question is whether the Board determines if the nature of what is listed on page 1923, definitional section, of the Code Book, is similar to a land use planner. (He believes the list is meant to be illustrative).

He declared the secondary question is, whether or not the activities - including the parking on site and the outdoor storage are something that would be authorized under the zone.

He recommended the Board not focus on the peripheral issues but on the Interpretation to allow the use on site, and then go on from there.

Roger Thomas suggested if there are no further questions, the motion should be framed as to whether or not the mover believes that the use as outlined by Mr. Sullivan which is, that of a professional lake management company, is one that is encompassed in the Village Neighborhood Zone (VN), under subsection (4) Professional Offices.

Action: A motion was duly made by Mr. Smith, seconded by Mr. Rivera to approve **ZB#02-11 Allied Biological, Inc.** Block 1505, Lot 1, 51 Vail Rd., as a permitted use. Roll call vote: Green, Ohannesian, Anderson, Straut, Smith, Rivera, and Waldron – yes.

Roger Thomas addressed the applicant's attorney, explaining that the applicant may already have sufficient area in which to have the appropriate number of parking spaces. He pointed out this particular application does not allow for this Board to deal with that particular component. He suggested the attorney talk with the applicant to determine if there is enough parking to be placed on site.

Roger Thomas further stated there is already an issue whether or not they have asphalt. He pointed out, that is a design standard. He said they may need to request a waiver of that.

Roger Thomas revealed an important component is the outdoor storage of boats. He said he believes that outdoor storage is not authorized in the zone. That would need a variance only.

Mr. Sullivan revealed that he had a conversation with David Diehl re: the outdoor storage. He said David Diehl thought there would be a conditional approval of the temporary storage structure with the understanding that within a certain period of time, that he would come back for a variance for a pole barn structure with a site plan application, since he does not have the funds to do that initially.

Mr. Hahn, explained that he could seek the approval and then not build it, as the approval would be good for a year or two. He further stated as a condition of approval, they could ask the Board for approval to use the temporary storage until the new one was built.

PUBLIC HEARING:

None

CORRESPONDENCE:

PB Mins. of 1/17/11

ZB#04-10 Carl & Della Darst, ltr. 3/7/11 R. Clark to R. Thomas Re: Proposed Resolution discrepancy

Roger Thomas explained that he spoke with Attorney Clark regarding his comment in his letter dated 3/7/11. There was a concurrence with no fence in the back.

Regarding a report from the Fire Department, there is nothing in the file. Roger Thomas instructed Attorney Clark to make the phone call regarding this. If further assistance is needed, he may phone the Board Secretary.

In that same letter, Roger Thomas believes, Item #1, and moving the boat location to where the Miller building formerly was, warrant an amended or new application. Attorney Clark acknowledges that this is something not in the application. Roger Thomas revealed in a prior conversation with Attorney Clark, Attorney Clark indicated their return to the Board is likely. Roger Thomas suggested that the grass vs. gravel area could be addressed at that time.

Roger Thomas explained not only the grass issue is outstanding but what is on that area, whether there is going to be some additional storage.

Chairwoman Waldron declared this matter stands as is. The applicant would have to come back to address issues in the future.

OTHER BUSINESS:

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

Roger Thomas explained that will be subject to the Court Order. They are working on the language. Once it is agreed upon, he is hoping they can come back at the April 12 meeting.

NEW BUSINESS:

Chairwoman Waldron revealed the Township Committee adheres to an 80 day retention schedule for audio tapes of meetings. She declared she does not want this to apply to BOA meetings. She wishes to retain audio copies of BOA meetings as long as possible. Roger Thomas declared there is nothing in the MLUL governing tape retention. He will research this.

PUBLIC PORTION:

There were no questions or comments from the public.

VOUCHERS:

Action: On a motion duly made by Mr. Straut seconded by Mrs. Green, escrow and general vouchers, as attached to these minutes, were approved. Roll call vote: Green, Ohannesian, Anderson, Straut, Smith, 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 8:56 pm.

Respectfully submitted,

Marion C. Spriggs
Board Secretary