

**BLAIRSTOWN TOWNSHIP  
ZONING BOARD OF ADJUSTMENT  
March 10, 2009**

**MINUTES**

The Blairstown Township Board of Adjustment met in regular session on Tuesday, March 10, 2009 at 7:30 pm at the Blairstown Municipal Building, 106 Route 94, Blairstown, New Jersey. The following Board members were present: Lois Brod, Barbara Green, Charles Anderson, Andrew Straut, Mark Ohannesian, Mike Repasky, and Joe DiGrazia. Debra Waldron and Philip Rivera were 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:** (As distributed prior to the meeting date).

Minutes of February 10, 2009 Regular Meeting

**Action:** A motion was duly made by Mr. Anderson, seconded by Mr. Straut, to approve the minutes of the February 10, 2009 meeting, as corrected. Roll call vote: Brod, Green, Anderson, Straut, Ohannesian, Repasky and DiGrazia - yes.

Executive Session Minutes of February 10, 2009

**Action:** A motion was duly made by Mr. DiGrazia, seconded by Mrs. Brod, to approve the Executive Session minutes of the February 10, 2009 meeting, as written. Roll call vote: Brod, Green, Anderson, Straut, Ohannesian, Repasky and DiGrazia - yes.

**RESOLUTIONS:**

**Last Frontier – ZB#02-06, Blk. 2003, Lot 23 – Hope Rd. – Denial**

Roger Thomas has received comments from a few Board members suggesting modifications to be made to this resolution. He will take them into account.

Upon rereading the resolution, he has come up with some language changes he wishes to implement to afford clarity.

He reported that Ted Rodman, Township Engineer, commented this is an application for an Extension. According to the Ordinance, the variance is viable for 1 year. This approval was

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granted in 2002. The original resolution in 2002, stated that the applicant had to get approval from the State indicating they had the right to use that driveway access.

There was testimony that the applicant had some problems. They never testified when they went to the state to get their approval. Dominic Santini, Attorney for the applicant, revealed when they went to the State, they were informed that they do not have the right of access. The applicant then instituted suit.

Based on the transcript, as of May 23, 2005, the applicant got a signed easement document which was filed in the Warren County's Clerk Office. The applicant never filed an application with Blairstown Twp. until October 2006. Ted Rodman pointed out, and Roger Thomas agrees, there is an untimely delay issue. Roger Thomas will be adding a paragraph to the resolution to include that information.

Roger Thomas explained the major differences are not in terms of changes to the first resolution but supplementing the resolution in terms of references to the transcript. He clarified what the Board's findings were, noting that the substantial changes resulted in an unsafe condition. He included Ted Rodman's and Board Member, Mrs. Brod's, on-site observations, that the obstruction was more than 0.2 seconds. He commented that if the observations were put on record, then the Board has the right to rely on them, and the person has the right to be cross-examined. These additional factors had not been included on the prior resolution.

He stated this resolution makes it clearer as to why the Board continues to feel that this is an unsafe access.

Mr. DiGrazia requested the changes be highlighted.

Roger Thomas proceeded to read the entire resolution, noting changes throughout.

In summation, Roger Thomas re-emphasized, the explicit conditions now are, safety issue and delay in returning to the Board.

**Action:** A motion was duly made by Mr. Anderson, seconded by Mrs. Brod, to accept the resolution as rewritten. Roll call vote: Brod, Anderson, Straut, Ohannesian and DiGrazia – yes. Green and Repasky – abstained.

**COMPLETENESS:**

None

**PUBLIC HEARING:**

None

## **CORRESPONDENCE:**

Minutes from 1/19/09 Planning Board Joint Meeting  
NJLM Mayors Fax Advisory – 2/19/09 Re: Legislative Alert  
NJLM Mayors Fax Advisory – 2/24/09 Re: Legislative Recap

## **OTHER BUSINESS:**

### **Annual Report**

Roger Thomas promised to have the Annual Report ready in April.

- **Darst Status** – ZB#02-05

Roger Thomas reported he received a phone call from Attorney Clark regarding the Darst matter. He reiterated, that he reported to the BOA in the past, that there may be some attempt to meet with Ted Rodman, Township Engineer, regarding some modifications which may ultimately come before this Board. Mr. Clark indicated they still seem to be interested in that. However, given the fact that time is running, he has advised that it is likely that his office will be preparing a brief to the Appellate Division, in anticipation of this appeal. If that is then required, Roger Thomas will be obligated to file a brief in response.

He advised the Board, at this point, they will need to defend themselves in regard to this appeal.

- **Last Frontier** – ZB#02-06
- **Verizon/All Walnut Valley** – ZB#05-08

Roger Thomas reported there has been a complaint filed in Superior Court. He will take the necessary steps to file an answer. He explained the usual course of events is, the Plaintiff (applicant) will gather evidence submitted, then produce a transcript from their court reporter. There will be a scheduling conference with the judge. Notification of when briefs must be submitted by the Plaintiff (applicant) will follow, and then Blairstown Twp. will file a response.

Roger Thomas will reach out to Ms. Dunn, the Plaintiff's attorney, to see where all this goes.

He stated it is a matter of public record that suit has been filed. Roger Thomas does not have comments regarding validity or invalidity, at this stage of the game.

Roger Thomas pointed out the applicant has now instituted an action. The Board action may be upheld or reversed by the Judge, or there may be a revision of a resolution, or a remand for additional testimony. If there is a remand for additional information, it would be from the Board, as it is constituted at that time. Former BOA members, who were on the Board during the Hearing, would not be called back. New members would have to read the transcripts, or listen to the CDs of the Hearing meetings, they missed, if they wish to participate.

**NEW BUSINESS:**

Chairman DiGrazia, stated the Township Committee is seeking bids for Township Planner. He noted, this Board took action at their annual Reorganization Meeting on 1/13/09, to appoint John Madden, of Maser Engineering, as Professional Planner. He suggested, when the Township Committee makes their choice for Planner, the BOA may wish to revisit their action taken, to see if it should be amended.

**PUBLIC PORTION:**

There were no comments from the public.

**VOUCHERS:** Professional services rendered.

**Action:** On a motion duly made by Mr. Anderson, seconded by Mr. Straut, escrow and general vouchers, as attached to these minutes, were approved. Roll call vote: Brod, Green, Anderson, Straut, Ohannessian, Repasky and DiGrazia - yes.

**ADJOURNMENT:**

The Chairman asked the Board for a motion to adjourn.

**Action:** On motion duly made by Mr. Straut, seconded by Mr. Ohannessian, and unanimously carried, the meeting was adjourned at 8:18 PM.

Respectfully submitted,

Marion C. Spriggs  
Board Secretary