

**BLAIRSTOWN TOWNSHIP
ZONING BOARD OF ADJUSTMENT
May 10, 2011**

MINUTES

The Blairstown Township Board of Adjustment met in regular session on Tuesday, May 10, 2011 at 7:30 pm at the Blairstown Municipal Building, 106 Route 94, Blairstown, New Jersey. The following Board members were present: Mark Ohannesian, Charles Anderson, Andrew Straut, Andrew Smith, Philip Rivera, Debra Waldron, and Mike Repasky. Barbara Green, 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:

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 April 12, 2011 Regular Meeting

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

RESOLUTIONS:

None

INTERPRETATION:

Joel & Claire Balbi-ZB#03-11 – Block 2003, Lot 25 - 48 Hope Rd - Interpretation

Bruce Jones, attorney for the applicants, withdrew his request for an Interpretation. He stated the applicant will pursue the matter as a Use Variance application instead. He asked to be considered for completeness instead.

COMPLETENESS:

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

Roger Thomas pointed out there were 9 items on Ted Rodman's report of 5/6/11 to review.

Regarding Item #9 Certification of Taxes paid, Marion Spriggs pointed out this was not submitted.

Roger Thomas pointed out Items 6, 7, 8 & 9 appear to be more substantive. Ted Rodman agreed.

Ted Rodman recommended that although a map was provided, a condition would be submission of a site plan.

Roger Thomas commented that the Board is always greatly concerned with regard to Item #9 – Certification that Taxes are paid to date. He pointed out that he agrees with Ted's comments. His suggestion is that the Board deem the application Incomplete for failure to establish that taxes are paid, waiving Items #1 through #8. Roger Thomas recommended when the Certification that Taxes are Paid is produced, then the matter can be deemed complete and the Hearing can commence at the 6/14/2011 meeting.

Roger Thomas clarified that Mr. Jones can advertise the Hearing for 6/14/11, based on the assumption that Item#9 will be provided.

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

PUBLIC HEARING:

Last Frontier-ZB#02-06 - *Whispering Woods Hearing*

Roger Thomas explained the history of this application.

He explained the Whispering Woods Hearing which states if there is litigation involving a planning matter that is proposed to be settled, the public has a right to be heard. After public comment, the Board then votes.

Dominick Santini, attorney for the applicant explained this is a settlement arrived at with the Township Attorney, Mr. Thomas, and himself. He explained the terms were set forth in a Consent Order signed by the Judge on 4/4/11. If the terms are approved by the Board, it would go back before the Judge and the client's Complaint against the Town and Board would be dismissed.

He explained that his client agrees to the terms of the Settlement as follows:

1. The driveway access to the lot will be improved in accordance with A-13 "Proposed Driveway Entrance Grading" prepared by Pequest Engineering.
2. The applicant will install a sign as marked on A-19." Proposed Sign Placement Plan". If it is permitted by the County Engineer, he stated it will be placed in accordance with that Plan. If not, a No Left Turn sign will be installed at the entrance. Roger Thomas indicated for the record, A-19 shows a Stop sign to be located. He said that's the one the County would have to approve. If it is not approved, then there will be a No Left Turn sign also in the driveway. He clarified it is one or the other. For the record, he stated the reason for this is because this particular lot is accessing onto County Rt. 521, over which the County has jurisdiction.
3. The Plaintiff shall install on the County bridge abutment, facing the access drive, a One-Way sign demarking the direction to exit the driveway, if permitted by the County Engineer's Office.
4. The Plaintiff shall agree that all brush and other debris will be cleared and maintained in the view corridor designated as "Panoramic Views Station 1 & 50 through 1 & 20" to improve the view corridor for vehicles on the driveway looking toward the bridge. Mr. Santini stated that clearing has already been done by his client. He further stated that it is a requirement that whoever is at that lot will continue to clear that corridor.
5. The Plaintiff shall submit at the time of the Hearing, A-1 letter dated 3/14/11 from the County Engineer's Office signed by the County Engineer, David Hicks, stating that the access to the property was submitted under terms of the permit #01090 and that the construction work was approved on 10/24/2002 and is still in effect.
6. The applicant shall submit report, marked at this meeting as A-2, from Mr. Gary W. Dean, PE, Traffic Engineer, dated 11/3/06, verifying representation made in his traffic report, that the driveway is safe.

Mr. Santini stated if the Board agrees to these terms, and passes a Resolution accepting these terms, then the Superior Court Judge would confirm the Settlement. There is a 45 day appeal period for any objectors wishing to file a lawsuit.

Chairwoman Waldron asked, for the record, if the County was abiding by the original inspection, before the new bridge was done. Mr. Santini responded "that's exactly what the Engineer says".

Roger Thomas commented to Mr. Santini that this is a large lot with an extraordinarily narrow access presenting issues. He said it has been suggested as part of the Settlement that there ought to be deed restrictions of no further subdivision review. Mr. Santini responded it is already in the easement that the State gave. He understands it cannot be further sub-divided.

Roger Thomas asked for that to be submitted as A-3. Mr. Santini agreed.

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This portion of the Whispering Woods Hearing was opened to the public.

The following residents were sworn in.

Walter Unick, 2 Hillview Ln., Blairstown, is a new homeowner to this area. He revealed his property runs parallel to the access driveway, for approximately 600 ft. He understands that the driveway will be built on the DOT easement. He questioned if there will be a buffer. If so, he stated there may not be enough width in certain areas to accommodate a 10 ft. driveway.

Roger Thomas pointed out this Board has no jurisdiction over property rights. He stated the Variance was granted with conditions in 2002. The applicant had to return due to a change in circumstances i. e. the bridge. The Board denied that, and that was the Appeal that was made. He explained that as a result of the Appeal the matter is coming back to see whether it can be settled, so the suit can be dismissed.

Mr. Unick questioned if the neighbors have any say in this matter. He declared they do not think it is safe.

For the record, Mr. Santini confirmed that the DOT granted permission to cut underbrush when granting the easement.

Mr. Unick questioned who is liable. He thinks it is a very, very unsafe situation. He questioned access to the driveway from Rt. 521 North. He stated there is insufficient line of sight.

Mr. Unick's final question was, why the litigation is against Blairstown, since the County built the bridge. Mr. Santini responded "because the County has no problem with this house being built there". Mr. Santini declared this was all taken into consideration when the new bridge was built and the County Engineer will be glad to explain it.

Roger Thomas responded these are issues the Board has taken into consideration. What the Settlement calls for is the documentation that has been submitted. That information includes a recognized Traffic Engineer from the State of NJ. The report was submitted previously and this Board wanted that report as part of the record because of the issues of concern. He revealed that Traffic Engineer has indicated that this is a safe and adequate ingress and egress access for this site. He stated this Board insisted there be a County verification. That was Exhibit A-1. He declared the County is responsible for these kinds of matters.

Carol Fredda, 8 Hillview Ln., Blairstown, wants the record to reflect that she feels it is an unsafe driveway. She was concerned with future issues and if there is enough room for the emergency vehicles to turn around to avoid backing out. Mr. Santini pointed out that it is a 24 acre lot, so there is more than enough room. Chairman Waldron noted for the record, every one of the Board members thought about the exact same thing and addressed these concerns. Mrs. Fredda stated how hazardous it is to enter her driveway which is a short distance away. She feels vehicles crossing the bridge do not do the speed limit.

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Rodney Fredda, 8 Hillview Ln., Blairstown, questioned whether a vehicle exiting that driveway must turn right. He asked if they have to pull into his driveway on Hillview Lane to make a U-turn to travel towards The Forge restaurant. He asked if turning left was legal. Mr. Santini's response was "as long as there is no sign prohibiting it, yes it is".

Mr. Fredda declared that he had offered to buy that property for \$60,000. in 2001, before all this was started. He stated he owns 600 ft. of that property line. His experience pulling into Hillview Lane has been hazardous, with motorists traveling at 50 mph in a 35 mph zone. He must turn at a 90 degree angle to enter. He relates his situation to how difficult it will be exiting the driveway in question, which is a short distance away.

Mary Flynn, 8 Conrad Ct., Blairstown, questioned if all the Board members are familiar with and have seen the property, since some members have changed since the original application. Chairwoman ascertained the members have seen it.

Roger Thomas summarized as follows. He declared the issue before the Board is whether the terms of the Settlement are acceptable to the Board. He outlined the conditions:

A deed restriction on the 24 acres, that is based upon the easement from the state.

It will be limited to 1 lot, which it is now.

He pointed out to the Board their action would be the same as any other action. He suggested incorporating the deed restriction as desired, in their action, so that document can be marked as A-3. He informed that upon approval, the Resolution will then be sent to the Judge, with a copy to Mr. Santini, for the Judge's ultimate disposition.

Action: A motion was duly made by Mr. Anderson (with reservations), seconded by Mr. Straut, to grant the **Last Frontier-ZB#02-06**, Block 2003, Lot 23, - Variance with the aforementioned conditions. Roll call vote: Ohannsian, Anderson, Straut, Smith, Waldron, and Repasky – yes. Rivera – no.

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

This matter is carried until the June 14, 2011 Meeting.

CORRESPONDENCE:

PB Mins.of 3/21/11

OTHER BUSINESS:

2011 BOA Budget Reduction

Chairwoman Waldron explained that the Township Committee took action to reduce the budget for the BOA. She pointed out the BOA took action to reduce the BOA budget by a certain %. She stated Township Committee further slashed the Budget. She declared for the record, the Township Committee has cut the BOA budget in half. She cautioned the Board they have to be extremely careful in spending the Township's money. Stipulations have been put in there, and she stated the Board was notified after the fact. She explained it is going to be extremely tight on this Board.

Billing – timeliness

In view of the above, she strongly suggests to the Board professionals that every bill is submitted with time as the essence. She does not want delayed billing. Roger Thomas responded that every bill he submits will be in the Board Secretary's hands not later than the 10th of each month. He will make certain the bills will not be coming the next month.

A Board member commented delayed billing impedes the escrow refund process.

BOA Alternate #2 – Status

Chairwoman Waldron pointed out that she awaits the status of the Township Committee in making an appointment of an Alternate #2 to this Board.

NEW BUSINESS:

None

PUBLIC PORTION:

This portion of the meeting was opened to the public for comment.

Mary Flynn, 8 Conrad Ct., Blairstown, suggested that the Board take very seriously, how applications would affect the surrounding neighbors. Chairwoman stressed how seriously she views applications, and encourages the public to come. She explained neighbors who do not comment during an application, so as not to make enemies, are forfeiting their rights and have put the responsibility on themselves. She said the Board members can't know what a person is thinking or what the repercussion is, without public input. Chairwoman reviewed the level of concern on the Board for each application, of which she is very proud.

Mary Flynn commented that neighbors may not realize the effects on resale value.

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: 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. Ohannesian and unanimously carried, the meeting was adjourned at 8:39 pm.

Respectfully submitted,

Marion C. Spriggs
Board Secretary