

**BLAIRSTOWN TOWNSHIP
ZONING BOARD OF ADJUSTMENT
October 12, 2010**

MINUTES

The Blairstown Township Board of Adjustment met in regular session on Tuesday, October 12, 2010 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, Debra Waldron, Philip Rivera, and Mike Repasky. John Sartori 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: (As distributed prior to the meeting date).

Minutes of July 13, 2010 Regular Meeting

Action: A motion was duly made by Mr. Straut, seconded by Mr. Anderson, and unanimously carried, to approve the minutes of July 13, 2010, as written. Barbara Green abstained.

RESOLUTIONS:

ZB#05-08 Verizon Wireless/All Walnut Valley aka “Cellco”, Block 15.01, Lot 4, 155 Rt. 94 – Site Plan & Bulk Var., 155 Rt. 94.

Barbara Green was absent for the Hearing on this application.

Action: A motion was duly made by Mr. Rivera, seconded by Mr. Ohannesian. to approve **ZB#05-08 Verizon Wireless/All Walnut Valley aka “Cellco”,** Block 15.01, Lot 4, 155 Rt. 94 – Site Plan & Bulk Var. Roll call vote: Ohannesian, Anderson, Straut, Smith, Waldron, Rivera and Repasky – yes.

COMPLETENESS:

None

PUBLIC HEARING:

ZB#04-10 Carl & Della Darst,Block2003,Lots 28,29,29.01,31.01-Hope Rd–Amend Prel & Fin.Site Plan

Barbara Green and Andy Smith stepped down for this application.

Richard Clark, attorney for the applicant, was accompanied by John Miller, PE, who testified previously, and Joseph Weaver, PE. Both represent the applicant and are from Suburban Consulting Engineers, Inc., Mt. Arlington, NJ.

Joseph Weaver, PE, Suburban Consulting, was sworn in.

Mr. Clark revealed that a revised map dated 9/30/10 has been prepared, which indicates what is being requested and what operations are going on.

The following exhibits were marked:

- Exhibit A-5 Revised map dtd. 9/30/10
- “ A-6 Storm water Management Report dtd. 10/1/10
- A-7 Letter from John Miller, PE dtd. 10/1/10 response to Ted Rodman report 5/7/10
- A-8 Color rendering, sheet 3 of 10/12/10
- A-9 Color rendering, sheet 5 “ “
- B-1 Concept layout dtd. 8/14/10
- A-10 Auto Turning Radius sheet

Mr. Miller stated objections in the past were visibility, and the biggest issue was the outside storage of vehicles with engines and fuels. Accountability for what is going on is necessary for the Zoning Officer visits.

He pointed out that blue spruce will replace white pines, since they are more deer resistant.

Mr. Miller identified the number of Sea/Land containers. There are 19 – 40’, 5 – 20’ and 1- 26’. He stated the major change is all the Sea/Land containers were moved to the back, making them less visible.

The storage was moved to the easterly part, making it less visible.

Only existing sailboats, some there since 2004, with internal tanks and NO fuel, will be stored.

RVs without engines, without propane tanks, will be stored outside, where possible.

The Darst tractor, excavator, line clearing machinery, some trailers and pickup truck will be stored on the premises.

The major emphasis is to relocate Sea/Land units to the rear, and plant the new trees.

He stated there is a new additional 50’ x 20’ Miller Building which wasn’t on the site plan originally. It was put on there to eliminate all the possible storage of vehicles with engines in them.

Mr. Weaver confirmed that **Phase I** will be completed by 5/15/11. It includes: the landscaping, sign in front, monuments around outside of gravel and repair of adjacent fence along Lot 27. Chairwoman Waldron pointed out that in an effort to do this, one Miller Building by the road, must be moved back. Mr. Weaver responded the Miller Building will be moved by 7/2011.

Attorney Clark interjected that various timelines exist, since the buildings have to be emptied, moved, and filled again. He said realistic dates are mentioned but they are not sure about renters' cooperation.

Mr. Miller pointed out that Warren Cty. will have to issue a permit for the highway access. The applicant would like to get started with the screening before that.

Phase II entails the construction of the middle 100' building, which will house items as the other units are moved. Expected completion would be July 30, 2011. Mr. Weaver confirmed the new driveway will be put in; the existing Miller Building will be pulled back. The Sea/Lands on lots 29, 29.01, and 31.01 will be relocated to lot 28.

Chairwoman Waldron asked if a request for an LOI was submitted to the DEP. Mr. Miller responded no. Attorney Clark clarified that they have talked, and it is lined up to do.

Chairwoman Waldron asked if the existing fence, in need of repair, was on Darst property. Mr. Miller responded that the Darsts will fix it.

Roger Thomas asked if the swale area along the property line will be cleaned up, as part of Phase I. Mr. Miller responded the landscaping plan reveals the whole strip will eventually be lawn.

Ted Rodman pointed out that the applicants don't have to go through expense and time for storm water approval, since Blirstown is 1 of 28 municipalities in the State, authorized to render their determination.

Chairwoman Waldron stated the absence of cattle fencing on the new plan, poses a problem. Mr. Miller explained that survey-type monuments, level with the ground, will be installed to delineate the migration of units, for the Zoning Officer's inspection. Mr. Miller explained the markers are sunken 2' to 3' and can't be moved easily.

Mr. Miller revealed that the Darsts thought that the fence would be problematic with mowing, and taking care of the property. He explained they will mow around the wetlands area. Ted Rodman suggested strategic openings in the fence for mowing purposes.

Chairwoman Waldron declared the Board wishes no further expansion or capsulization of this property, as has been done in the past. Attorney Clark explained they understand the Board's concerns but they are offering to do monumentation, which cannot be moved. Chairwoman Waldron's concern is that clients can drive over it and through the grass area, and the property could be drifted upon for other purposes.

She remarked that the applicants' vision of the Zoning Officer looking at it, is tied to when there is a problem. She wants it tied down for applicants' and Board's sakes, so they are not constantly dealing with this same issue again. Attorney Clark stated the area discussed, is nowhere near the perimeter of the property. He commented the monumentation is an enforcement tool, better than a fence. He said nothing could be located behind a fence. He said anything behind there is not part of a site plan. Finally, he revealed they are looking to have this done so there doesn't have to be any enforcement.

Ted Rodman stated that it is not strictly the issue of enforcement but an issue of the use of people using the property, and knowing where the line is.

Phase III was explained by Mr. Weaver, as getting the fence in on the permit property, and moving the Sea/Lands to their proposed location. He stated the anticipated deadline is December 30, 2011.

The **Final Phase IV** is the construction of 2 - 150' Miller buildings. Attorney Clark indicated that this is based upon market demand, thus there is no certain deadline date.

Chairwoman Waldron referred to the conceptual map, dated 8/14/10, by Mr. Miller from a previous work session meeting, for comparison with the new map. She indicated there seems to be an expansion of what was discussed. There is an additional Miller building, the storage facility has been moved, no pad is shown on new or old map, for motorized vehicles.

Mr. Miller responded that the Darsts indicated since they are giving up storage for motorized vehicles, they questioned if the possibility of another Miller building can be shown.

He further stated the only vehicles being stored, are the ones owned by the Darsts which they must locate somewhere. They are a backhoe, 2 land-clearing vehicles, a pickup truck, and small utility landscape trailers. Chairwoman Waldron requested an itemized list of what is being proposed.

For the record, Chairwoman Waldron asked for a footage measurement of what was originally proposed for storage of trailers, trucks etc. versus what is currently being proposed in terms of feet. Mr. Miller revealed the Darsts haven't lost any space but simply lost space for the type of vehicles planning to be stored.

Roger Thomas pointed out that Lot 29.01 was reserved for Darst business vehicles in the original resolution, and suggested that be reviewed with them. Attorney Clark agreed to do so.

Attorney Clark explained this is the way it can be maxed out in the sense of good useable property. It meets the regulations currently. He stated this is all there is going to be.

Chairwoman Waldron mentioned that a map comparison reveals the Sea/Land buildings are moved up. Attorney Clark responded this is for front and rear access, maximizing storage space. Attorney Clark indicated there is 20' distance to the back of the monument wall. He revealed the 6 buildings on the line will have no rear access.

Vice Chairman Rivera questioned if there would be vehicle access to the rear of the buildings. Mr. Miller explained the turning templates indicate vehicles can get to the back of the blue buildings without crossing the monument.

Mr. Repasky pointed out whenever movement is in the lower right-hand side, the result is, driving over boats. Mr. Miller replied there is nothing saying there will be a boat parked there at that time. They were simply picking a worst-case scenario. They went through a computer program, picking an example with a car with a trailer on it, and felt there was adequate access around the site. Mr. Repasky stated in the area reserved for the parking of boats, it would have to be assumed, they are there.

Ted Rodman pointed out that if it became an issue, all those trailers could be moved 10' to the North.

Chairwoman Waldron's point is that, without a fence, there is nothing stopping someone from going over the grass, if they can't make the radius or if they want to back in. Mr. Miller admitted there is nothing stopping them.

At this time, there was a break in the meeting.

*After the break, Roger Thomas suggested the review of Ted Rodman's report of 10/8/10. Items suggested as approval conditions are listed in Roger Thomas' summation, below.

Mr. Repasky pointed out the following typos on the drawing:

Sheet 3, sheet 5 and Exhibit A-9, The 50' side yard setback on South border - Should be 25'
Sheet 5 and Exhibit A-9 side yard setback - **Remove 9.0' which has no relevance to this application.**
Sheet 4 Note in right margin indicating End Load Storage Container Five (5) - Should be 8'x20'x8.5'
Sheet 4 a mistaken line pointing from the 40' to the 45' Relocated Sea/Land Containers - **Should be removed**

John Miller, PE, agreed to make the changes.

Chairwoman Waldron requested that the new, revised map should indicate the new position of the Sea/Land trailers, minus the Miller Building.

Ted Rodman pointed out this is in a HC district and there is no reference to lighting. Roger Thomas stated, it is up to the Board to request internal or external lighting.

Roger Thomas summed up as follows, if there is to be an approval, it should include:

Approval of the Plans, revised to 9/30/08
The personal equipment will be located on Lot 29.01
4th Miller Bldg. on the southerly side of the property, will be removed
Sea/Land trailers in the rear of the southerly property, will be relocated between 10' and 12' for better access – to be reviewed by Ted Rodman
Note #1 on sheet 3 of 8, of the Site Plan. will be revised to read “fuel other than propane, shall be removed. Propane will be subject to the Fire Dept.”
The aforementioned drawing typos referenced by Mr. Repasky, will be corrected
Subject to any other outside agency review required, together with the payment of fees and taxes.

*Roger Thomas continued with suggested approval conditions from **Ted Rodman's 10/8/10 report:**

Item #6 - LOI from the DEP
Item #9 - Modifications to the map re: limits of disturbance
Item #12 - Turning radius per Ted's report of 10/8/10 would be clarified
Item #15 - Issue of waiver of EIS (the mover can allow this waiver, or not)
Item #16 - Landscaping of berm (the mover decides)
Item #19 - Waiver of fence
Item #21 - Joint access agreement is required
Item #22 - A 15'ht. restriction
Item #24 - Warren County approvals
Item #25 - Pre-construction meeting and inspection escrow required

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Chairwoman Waldron asked Roger Thomas to clarify the EIS. He stated the applicant wishes the Environmental Impact Statement waived. He revealed that the Board has the right to require an EIS.

The Board is concerned about the issue of ground water, i.e. wetlands, which is in the jurisdiction of the Department of Environmental Protection. If there are other concerns, he explained, the Board can request the EIS. Storage tanks and propane tanks do not fall into this category. Roger Thomas explained storage tanks have been removed from the Board's consideration by the applicant. He revealed that propane sealed tanks are more a safety issue, and that is why he referred to the Fire Department.

Roger Thomas stated the question of the berm, the fence, and the EIS waiver, are issues to be resolved.

Roger Thomas pointed out that Storm Water Management is subject to Ted Rodman's review.

Chairwoman Waldron pointed out that the new map reveals a trailer behind the house on Lot 29. Attorney Clark indicated that trailer is not going to be relocated. Roger Thomas asked what that trailer is used for. Attorney Clark replied he thinks it is a house trailer. Chairwoman Waldron declared that is supposed to be relocated to the other site. Attorney Clark responded that is a separate issue for them., stating "That is not this site plan". He said they do not propose to relocate. Chairwoman Waldron commented that all trailers were to be relocated to this site. Attorney Clark responded that is being used as the office and it is not being relocated. Roger Thomas asked Attorney Clark if it is his representation this is the office, **not to be used as a residence**. Attorney Clark answered, he understands - it is the office. Roger Thomas asked if it is fair to say that it will be designated as office only. Attorney Clark responded "That's what it is".

Roger Thomas asked if there was anything further from Attorney Clark, who responded, "That covers all the issues". Attorney Clark stated they would agree to the Phasing Plan. Frankly, he stated, the Darsts don't want to put in the fencing.

Chairwoman Waldron stated that the Board is trying very hard to come to an agreement. What she does not want to see happen, is that become an additional space for clients to drive up and around the property. She does not want to see additional storage migrate to that area. She explained she is seeking an end solution from everyone and does not want to field complaints from neighbors.

Chairwoman Waldron asked if all original 22 conditions have been met. She explained that the Board members have not had the chance to review them. She questioned if the Board has anything that stipulates what's in the buildings. She also asked if there is a lease agreement with the lessees. Attorney Clark responded that he submitted that with the deeds.

Ted Rodman added that it is so tight on the impervious – "right on the edge". He added if moving off of that edge with more area, that line should be delineated for storm water reasons. Attorney Clark responded "They do not agree on the fence". He feels the Board has something better. He stated there is a resolution, and an exact location. Attorney Clark stated there is no development permitted otherwise on the property. Chairwoman Waldron replied this is a business.

This portion of the Hearing was opened to the public.

G. Carol Cook, Blairstown resident, was sworn in. She thinks the current plan looks very good. She recommends a nice fence. She suggested notifying clients now, in advance, to give them enough time to move their things.

Rosalie Murray, Blairstown resident, was sworn in. She revealed that she sat through the original testimony on this application years ago. She does not recall a discussion on RVs and when the application expanded to include them. She is seeking clarification.

Roger Thomas said there was testimony from 2003, indicating there were recreational vehicles on site. He explained the note on the Plan indicates recreational vehicles-without engines. He clarified that an RV is “something you hop in and drive away”. A recreational vehicle, without an engine, is something that is pulled behind by a truck. He stated the resolution should clearly reflect this.

In response to another question, Attorney Clark clarified that “stacking” means putting the trailers together, not atop one another.

Mary Flynn, Blairstown resident, was sworn in. She disagrees with blue spruce being an adequate buffer. She feels they are slow growers, the color may not be blue, and they are prone to bugs. Chairwoman Waldron responded she has had favorable results with them.

Mary Flynn questioned the internally-lit sign. Roger Thomas responded it will be as indicated on the Plan, so long as it is in the Ordinance provision. He indicated there has been no talk of shutting the sign off. He said the business hours have been established from 5:30am to 10pm.

Chairwoman Waldron indicated there is a condition if anything happened to the trees, they would be replaced with similar trees.

Since there were no further comments from the public, this section was closed to the public.

Roger Thomas’ suggestion is that the original site plan approval conditions remain in effect, except as otherwise modified by this approval. Attorney Clark replied that most of them have been modified. He stated “This is Our Plan”. He said he looked at those old conditions and did not see any that hadn’t been discussed, i.e. hours of operation, lighting the access. He thinks everything is in there. He suggested having a resolution that states these are the conditions, he said, “This is an Amended Site Plan”.

Roger Thomas responded that the prior site plan approval was memorialized on 3/14/06. He proceeded to read each of the original conditions. Remarks were as follows:

- #1 applicable
- #2 out
- #3 applicable
- #4 applicable
- #5 out
- #6 out
- #7 applies to existing paving
- #8 out
- #9 applicable
- #10 fencing has been modified
- #11 hrs.of operation should be included – 5:30am – 10 pm
- #12 out
- #13 applicable
- #14 out
- #15 applicable - modify to business to be conducted from trailer in rear of Lot 29
- #16 out

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- #17 lighting to be turned off at 10 pm to coincide with hours of operation
- #18 applicable
- #19 timing is different
- #20 applicable
- #21 out
- #22 pre-construction meeting is absolutely applicable

Chairwoman Waldron asked what is going to be in the area where the proposed Miller buildings to the South, were to be located on the new map. Ted remarked the more grass, the better. John Miller agreed more grass will be put there, contingent upon Ted's approval.

There were no further questions or comments from the Board.

Chairwoman Waldron stated she would really like to see this work, for the Board's, and applicant's sakes. She would like to see it incorporated as it was designed to be. She would also like to see no further expansion. She is asking the Darsts to stick within the template of the monuments.

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 Prel. & Fin. Site Plan, based on the aforementioned caveats. Roll call vote: Ohannesian, Anderson, Straut, Waldron, Rivera and Repasky – yes.

Mr. Smith left the meeting after this application.

CORRESPONDENCE:

PB Mins. of 8/16/10
NJ Planner Sept./Oct. issue

OTHER BUSINESS:

Cell Tower Ordinance

Roger Thomas explained that this Board does not have authorization to make formal recommendations to the Governing Body, or to the Planning Board. He stated that this would be a favorable recommendation of adoption of this Ordinance to the Governing Body.

He reviewed that this was a situation with 2 flagpoles on one site. He further explained, this is an attempt to resolve that matter.

Action: A motion was duly made by Mr. Rivera, seconded by Mrs. Waldron, to approve recommending the **Cell Tower Ordinance**, amending Land Development Ordinance Section 19-601E(2) regarding cell towers. Roll call vote: Green, Ohannesian, Anderson, Straut, Smith, Waldron, and Rivera-yes.

Last Frontier – ZB#02-06

Roger Thomas stated this matter is ongoing. The final phase regarding the inverse condemnation, will be dealt with by the Township Attorney. He explained it is out of this Board’s jurisdiction.

NEW BUSINESS:

Planner Appointment

Debra Waldron announced that there had been a Planning Board Sub-committee meeting of three members. Three planners had been interviewed. Maser Consulting, represented by Darlene Jay and John Madden, had been chosen. She pointed out that Darlene Jay has done COAH for this Township. John Madden, PP, has agreed to cover, if needed, in her absence, at the same rate. This will be on an as needed basis. Planning Board has made this recommendation to the Township Committee.

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, Waldron, Rivera, and Repasky– yes.

ADJOURNMENT:

The Chairman asked the Board for a motion to adjourn.

Action: On motion duly made by Mr. Rivera seconded by Mr. Straut, and unanimously carried, the meeting was adjourned at 10:07pm.

Respectfully submitted,

Marion C. Spriggs
Board Secretary