

**BLAIRSTOWN TOWNSHIP
LAND USE BOARD
July 18, 2016**

MINUTES

The Blairstown Township Land Use Board met in a regular session on Monday, July 18, 2016, at 7:30 pm at the Blairstown Municipal Building, 106 Route 94, Blairstown, New Jersey.

The following members were present: Barbara Green, David Keller, Nick Mohr, Rosalie Murray, Joanne Van Valkenburg, Cynthia Dalton, Debra Waldron, Dominic Daleo and Dick Mach. Mike Repasky, Jim Sikkes, Frank Anderson, and Mark Ohannesian were absent. Also present were: Board Engineer, Ted Rodman, Board Attorney, Roger Thomas and Board Secretary, Marion Spriggs.

SALUTE TO THE FLAG: was recited.

THE SUNSHINE STATEMENT: was read.

Meeting was called to order by Chairwoman Waldron, who stated:

“Adequate notice of this meeting of the Blairstown Township Land Use Board has been provided in accordance with the Open Public Meetings Act (Chapter 231.P.L. 1975)”.

ROLL CALL: was taken.

LAND USE BOARD DEADLINE DATES:

Chairwoman Waldron declared that submission of information supporting applications must arrive at Town Hall **10 calendar days prior to meetings.** She explained this is an effort to give the Board members enough time to review the documents and requested this notice be read at each meeting.

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

Minutes of the June 20, 2016 Regular Meeting of the Land Use Board were approved, as written.

Action: A motion was duly made by Mr. Keller seconded by Mrs. Van Valkenburg to approve the Minutes of the June 20, 2016 Regular Meeting of the Land Use Board, as written. Roll call vote: Green, Keller, Mohr, Murray, Van Valkenburg, Dalton, Waldron, and Mach - yes. Daleo abstained.

RESOLUTIONS:

None

COMPLETENESS:

None

PUBLIC HEARING:

LB#06-16 John Clark, Blk. 801, Lots 1 & 2.01 – No Road Frontage - Permit (40:55D- 35, 36)

Mike Selvaggi, Esq., of Lavery, Selvaggi, Abromitis & Cohen, Hackettstown, is representing the Applicant.

He reviewed that Mr. Glasson, PE, had met with the fire officials on the property. He said Roger Thomas had written to the Fire Chief asking for clarification on access questions raised by the Board. They received the responsive letter, addressing removal of 2 trees, listed as the below exhibit.

Exhibit B-1, letter from Blairstown Hose Co., dated 7/8/16. was marked.

Mr. Selvaggi stated the Applicant's position was that the removal of those 2 trees, will make it access safe for emergency vehicles. He believes with this letter the standard has been met, thus relief should be granted.

Ted Rodman commented there was an issue about the ability to remove those trees which Mr. Selvaggi was to address.

Mr. Selvaggi responded the question was regarding 1 tree outside the easement area. He said case law notes you have a right to reasonable, bare minimum-maintenance, to the extent necessary, in order to ensure the purpose of the easement. He said the Applicant is "pretty comfortable" in his legal position to do that. He admitted he may have to go to court to perfect that right.

Ted Rodman asked if those trees fall within the easement. Mr. Selvaggi responded, one does, the other is immediately outside. Both must come out.

Chairwoman Waldron asked if any attempt has been made to reach out to the home owner.

Mr. Selvaggi responded they searched the chain of title. Mr. Keiling had prepared an Easement Agreement, and a Driveway Maintenance Agreement. He said he has written to both home

owners, stating they are prepared to join in the terms and conditions of the easement. He has not heard back.

Ted Rodman pointed out that there was a condition that the Applicant would be responsible for maintaining the entire length of the road. Mr. Selvaggi pointed out the Applicant's property is the last on the road. Practically speaking, he would have to maintain it, even without cooperation.

Mr. Daleo noted that he drives the ladder truck, which is the biggest truck, for the Fire Dept. He has visited the property twice. He is concerned about what the law says. He is concerned with the very sharp turn and believes the Applicant does have to remove the trees and telephone pole. He is also concerned that there is no agreement with the neighbors, before the LUB votes on this.

Mr. Selvaggi responded he suspects the approval would be subject to the terms of the Fire Chief. Frankly, he admitted, the reality is, "it's going to be a candid arrangement, or it will be settled by a judge". He explained the Board's approval is based on lawful means of access to resolve the question of tree removal.

To clarify, Roger Thomas suggested any affirmative vote would require:

Adequate access would occur and be maintained in accordance with the recommendations of the Fire Chief. It is up to the Applicant to satisfy those conditions. He explained whether or not they can fulfill those conditions is up to them. It is not up to this board to make that determination.

He declared if the conditions can't be met, "this approval is not worth the paper it is written on".

Chairwoman Waldron revealed she went back to the property twice. Her concern is if there were 2 or more vehicles responding to a fire, what will happen if 2 trucks must pass each other, since there are no pull-off areas. She asked if there was something that could be put along the side.

Mr. Selvaggi responded there would have to be an agreement with the parties to go outside the easement. He admitted it's not been amicable, so they were going to stick within the easement.

Roger Thomas noted there is a passing area on Lot 2.01. He stated that a reasonable condition would be to assure that on the property that they can control, there is a passing area sufficient for a fire truck. He noted there is also one on Lot 1.

Nick Mohr suggested that it be shown on both lots.

Ted Rodman stated there are still 3 on that property they are controlling.

Mrs. Murray declared the Township is opposed to flag lots and has always frowned on common driveways. She has lived in that area and is concerned about safety, especially with snowbanks. Roger Thomas responded that they have the Fire Chief's opinion and letter pertaining to same.

This portion of the Hearing was opened to the Public. There were no questions or comments.

If there was a favorable motion, Roger Thomas suggested the following:

Granting of the approval with the access as indicated in the map (rev. 4/14/16)

Subject to the requirement - adequate access in accordance with B-1 be established, and maintained as part of a condition.

Applicant establish pass-by areas on both Lots 1, and 2.01.

Roger Thomas will not include Joint Maintenance Agreement as a condition because it is an agreement in existence, agreed to by all parties, as per Mr. Selvaggi - or it's going to be an agreement that Mr. Clark is responsible for. He noted it may ultimately be decided through court litigation.

He said The Board will not be arbitrating the responsibility.

Chairwoman asked if an "either - or" clause can be part of the Condition.

Roger Thomas indicated he will be happy to do that.

Finally, Roger Thomas explained if the Applicant can't meet those conditions, the approval fails.

Action: A motion was duly made by Mrs. Van Valkenburg and seconded by Mr. Mohr to approve **LB#06-16 John Clark**, Blk. 801, Lots 1 & 2.01 – No Road Frontage - Permit (40:55D-35, 36), with the aforesaid conditions. Roll call vote: Green, Keller, Mohr, Dalton, Van Valkenburg, Daleo & Waldron - yes. Murray and Mach – no.

(For the record, Mr. Daleo listened to the audio version of the 6/20/16 Hearing on this matter.)

LB#03-16 Little Hill Fdn., Inc., Blk. 1202, Lot 3.2,- 13 Stillwater Rd., Use Var.

Mrs. Dalton and Mrs. Van Valkenburg were recused for this application.

Richard Keiling, Esq. represented the Applicant. He reviewed the past uses of the existing building. He noted patients in the Alina Lodge, Hardwick, will remain there. This facility is open to the general public.

Donna Pittala, Director of Family Services of Little Hill Alina Lodge, explained the proposed Counselling Center is to be an outpatient facility for individuals and groups, providing a lower level of care. They are the lowest 2 of 6 levels, shown in Exhibit A-10. Ms. Pittala described services.

Exhibit A-10, Admission Criteria, was marked and discussed.

She stated hours for 6 days of the week. Hours will be 10am – 9pm daily. There will be a receptionist and 2 counsellors who will be in and out.

Mr. Keiling noted if approved by this board, the Applicant still needs state licensing. He also revealed they can reject whomever they desire.

Regular sessions will last approximately 60 minutes. Times and scheduling were reviewed. “Walk-ins” must arrange for an appointment. If they are in crisis, Family Guidance will be called. If they are high, they must be assessed, de-escalated, and stabilized. A family member will be called. They will not have a regular session that day.

Evaluation, screening, referrals and restrictions were discussed. Mr. Yurga said they will treat the community and not bring in clients. They act as an advocate by referring people out, who do not fit under their service level.

Chairwoman Waldron indicated since they are in a populated area with a lot of families with children, a list of what will be treated is essential.

For the record, Don Yurga, Chief Operating Officer, for Little Hill Fdn., was previously sworn in but missed the last meeting. He said this is a new venture for them and is totally separate from Alina Lodge.

Ms. Pitalla indicated most of the clients would be self-referrals. Referrals also come from family, school, child study teams, court, and possibly from other agencies.

This portion of the Hearing was opened to the Public.

Chairwoman Waldron stated the LUB will resume with testimony from Mrs. Romano which was cut off at the last meeting, due to time constraints.

Gail Romano, Hope, NJ, was previously sworn in. Her primary objective is that there is quality patient care.

Mrs. Romano desires to get clarity on the use. She reiterated, with respect for Ms. Pittalla's honesty, she has no background in putting together an outpatient facility. Her concern is regarding conflicting answers given at the last 2 meetings i.e., re: treating schizophrenia, claiming to be a drug free facility but treats methadone patients. Ms. Pittala responded they do not prescribe or dispense drugs, if a patient was on methadone, they could be treated for something else.

She questioned taking a referral from DYFS. Ms. Pittala responded if there was physical abuse, she would have to say "yes", if they felt they could help them. If after the assessment, there was danger, then "no". If while at the center, they are deemed very ill, and there is imminent danger, assistance would be asked from Newton Hosp. or Family Guidance Center. Transport would be by ambulance.

Mrs. Romano asked how the situation would be handled if someone came to the facility – high or intoxicated. The response was, the Police would be called.

John Miller, 9 High St., asked if there will be an increase in the level of treatment. Secondly, an explanation of an IOP. Ms. Pittala responded an IOP would be a high school aged kid who got arrested for possession of drugs or DWI. She explained an adult IOP would be anyone who has DWI and have tried outpatient but could not stop drinking. They would be put in a higher level.

Mr. Miller pointed out they may have drugs in their car and thus in violation of a drug-free zone. Ms. Pittala responded they are more of an authoritative agency for the drug & alcohol client. She said, if anything, they are going to hold people more accountable. Mr. Miller stated the positive aspects of their service are not doubted, the concern is it being within the vicinity of the school and residences. He noted he lives 1,000 ft. away. He noted the residences were not mentioned.

Colleen Miller, 9 High St., questioned if there has been an impact study on the neighborhood. The response was "no". She asked if she were to sell her home, would she have to notify the potential buyer of their existence. Mr. Keiling responded, to his knowledge, "no".

She noted for-the-record, she has people in her life who have greatly benefitted from counselling.

Mrs. Miller questioned how it can be guaranteed there will not be episodes from a patient who has gone off their medication. She asked if security will be in place. Ms. Pittala indicated they will not have additional security guards. She has never needed them in 26 years. They will be keeping an eye on clients before reaching their breaking point.

Mrs. Miller asked what procedures are in place in case things go wrong? Ms. Pittala responded, there will be policies and in-services for all employees, which she explained.

Carol Cook, 44 Four Corners Rd., asked where the people currently go, who have the conditions the Center will be treating. Ms. Pittala responded Family Guidance, Washington, Hackettstown, Randolph, and Morristown. There is nothing within 5 or 10 minutes.

This portion of the Hearing was closed to the Public.

Don Yurga noted they would be dealing with more adolescent issues which would include image issues, and bullying. He said it encompasses the whole umbrella of mental health.

He said they advertise through their website and they will be listed in community resources and schools.

Ms. Pittala said they come under Department of Community Affairs, Division of Addiction Services, and Division of Mental Health and Addiction Services. 2 people are sent out for 5 days to make sure they are doing their due diligence for community and patient safety.

Ms. Pittala indicated they are not yet having a hot line.

Signage will appear for discussion on the Site Plan.

This portion of the Hearing will be open to the Public for comments. The following were sworn in:

Dirk Herrmann, 1 Sunset Hill Rd., President, Blairstown Elementary Bd. of Ed. Information was presented to them by Mr. Yurga and/or Mr. Keiling. In an open meeting to public and teachers, there were a few concerns but in the end it was almost a unanimous, favorable vote. The Bd. of Ed. agreed it is much needed in the area. He noted from a safety perspective, the administrators were the most supportive and saw the concerns as being manageable. He stressed how safety conscious the staff and principal are.

Colleen Miller, 9 High St., stated she has the highest respect for Alina Lodge. She admitted there is a huge need in the community for this type of work. She questions the unanswered questions. She shared a personal experience she had in the past. Her home was surrounded not only by Police but a SWAT team as well responding to an armed person on the loose. She was ordered to stay in her house with her children. She feels the school may be well protected but

pointed out, the residents are not. Her concern is conditions that may or may not be treated, and people treated, may or may not be on medications.

Carol Cook, 44 Four Corners Rd., feels something is needed in our community without driving miles away. She noted drugs and pills are all around us. She would prefer having the facility here. She feels the Township should “go with it”.

William Willix, 13 East Av., President of the Trustees representing The United Methodist Church. They feel as a community of faith, that this is much needed, and beneficial to the Community. He has lived there 15 years and observed that what is worried about being close to the School, is going on in town now. The Church thinks it is important for people to get help.

Karen White, 131 Mohican Rd., read her statement which included statistics on the rate of those suffering from mental illness. She recommends the community react with compassion and kindness instead of ignorance and fear. She welcomes it with “open arms”.

John Miller, 9 High St., former BOA Chairman, is noticing a mixture from low-impact behavior to people with difficult drug problems. He feels the problem is causing a congregation of problems in a residential neighborhood. He defends what this will do to the area as a valid, not selfish, concern. Regarding the security, he feels there should be some testimony from the Police Dept. regarding response time, what are the protocols, how are they set to handle it. He doubts that has been addressed adequately. He feels inconsistencies with the use of the building. He has not heard why this site is particularly suited to this use.

Gail Romano, Hope, states she is here not to dispute. She has been an advocate of behavior healthcare since 1973. Chairwoman Waldron asked her for further details regarding her background. Mrs. Romano responded her undergraduate was as a Clinical Social Worker. She said half of her career was Clinical and half was Administrative. She has organized both In Patient and Out Patient facilities.

She has a great deal of respect for Alina Lodge and its founder. She has been a paid employee as well as a volunteer of County and State facilities. She agrees that this community needs treatment. She declared she is convinced they have not sufficiently established a Use Variance. She is not convinced they have sufficient staffing in this facility, as compared to Alina Lodge. She insists on a safe environment and has not seen this proven here. She noted her biggest concern is that a Feasibility Study was not done, which would convince her of the need, and that this facility belongs in this community.

Mrs. Romano commented that there should have been meetings with the Police Dept., First Aid Squad and with community leaders for their opinion. She is not convinced that there are resources available, in a time frame that they need them available. She declared it is a volatile field and in her 20 + years' experience, has witnessed this first-handedly.

She cannot support this facility, given the lack of information which should have been provided. She will always support mental health care issues faced on a daily basis. She said "this is about quality patient care and the resources available in our community".

Mr. Keiling commented regarding the security and police presence. He noted both the Police Dept. and Rescue Squad are located 1 mile from the proposed facility.

Mr. Keiling responded to the Feasibility Study. He pointed out various businesses in the area which have not done such a study prior to opening.

Mr. Keiling addressed the safety issue which he agrees is the biggest concern. He noted the School Board discussed this at length, and they do not have a concern.

Regarding proving Inherently Beneficial Use for this Use Variance, Mr. Keiling noted they are trying to protect the community. He said this is not for personal profit.

He said there is no noise or traffic. This is a very benign operation. He suggests the benefits outweigh the detriments.

Roger Thomas asked if there is a limitation that says, this variance would be "personal" to Little Hill Fdn., and if they stop operating this facility, the variance would be void, would that be acceptable? Mr. Keiling responded "Yes".

Mrs. Murray stated her broad credentials regarding her familiarity with mental health care, since the 1970s. She said there is always an insufficient number of counsellors. In her opinion, wherein she states the need, it would be a tremendous advantage to have a local, low-level facility like this. She feels the benefits outweigh any questions.

Mrs. Green commented perhaps some of the issues discussed tonight might come under questioning when applying for the State License.

Chairwoman Waldron said though she supports the concept, she needs to know that there is a Plan B, in case our police officer(s) are tied up regarding response time. She said there are some things to be addressed with the Police Dept., Ambulance Squad, Fire Dept. and our

professionals. She noted it is not only the school, but also, businesses and residences that will be affected. She said, there has to be a way to comfort any fears.

She believes this will work but for-the-record she is concerned regarding the location.

Mr. Keiling noted that if this application is approved, they will have to come back for a site plan. At that time he can say, they have spoken with the Police Dept. etc. regarding response time.

Roger Thomas summarized by stating this is a D variance only, which will require 5 affirmative votes.

If approved, he suggests the following conditions:

For an outpatient services facility consistent with level 1 & 2, outlined on pg. 5 of Exhibit A-10, which includes outpatient and intensive outpatient (OP) and (IOP).

Include services as outlined in Exhibit A-10. Pg. 3 of the Admission Criteria Report

The approval would be “personal”, attached only to Little Hill Foundation. If they cease their services at this location, the variance would expire and be invalid.

There would be a requirement included for, at minimum, a phone assessment, by a qualified counsellor, and a 3-hour in-office Bio Psycho Social assessment

Nature of patients would be adolescents (13-18) and adults

It would be subject to all state licensure

Include the Exclusionary criteria on pg. 4 of Exhibit A-10

Subject to approval of the Site Plan, at which time, the Applicant will be required to provide info regarding comments and assessment from Emergency Services, i. e. Police and EMS

Include a Safety Plan

Mr. Daleo questioned security in the event that something happens. He asked, how is someone kept in place before the Police arrive? Ms. Pittala responded they may walk around the parking lot using de-escalation techniques. In 26 years, she has witnessed people just storming off. She

said “100 % of the time, they just want to be heard”. She confirmed that they would call Emergency Services, as needed.

Action: A motion was duly made by Mr. Keller and seconded by Mrs. Murray to approve **LB#03-16 Little Hill Fdn., Inc.**, Blk. 1202, Lot 3.2, - 13 Stillwater Rd., Use Var. with the aforesaid conditions. Roll call vote: Green, Keller, Mohr, Murray, Waldron, Daleo and Mach – yes.

Mr. Keiling stated they will be working on the Site Plan.

CORRESPONDENCE:

OTHER BUSINESS:

COAH

Roger Thomas stated a decision has been rendered by Judge Trancone stating there is a “gap”.

The Consortium has filed an appeal with the Appellate Division. The decision within the last 5 days, is that there is no “gap”. There was a decision to stay the effectiveness of the Appellate’s decision.

Roger Thomas found out today, there was a response to that. The Appellate Division has rejected that request by The Fair Share Housing Center.

He explained this means that The Township is still in a negotiation posture with regard to Fair Share Housing Center. Further, he feels that this will be appealed by the FSHC and go to the Supreme Court. It is hoped the Supreme Court treats it with urgency. He noted the Appellate Division did it within 5 weeks.

Roger Thomas believes the money outlaid thus far by this Township, (approximately \$6,000.), as part of the initial Consortium, is well spent. Judge Miller, assigned to this municipality, has made it clear that municipalities which are not part of the Consortium, will not have the benefit of what goes on in the Consortium.

He estimates another \$25,000. to be spent before even going to trial for minimum 3-day set of depositions with the Consortium Consultant, and 3-day attorney depositions of the FSHC. He said this is money well-spent. Though there is no obligation, he thinks this Township should explore the possibility of trying to settle its case. He believes there is some pressure on the FSHC to try to settle these cases.

Joanne Van Valkenburg, LUB Class I member, said \$1,500. was expended for being in the lower group. She has requested a Joint Meeting with LUB and Open Space Committee to look at everything. She pointed out Blairstown has not stopped meeting their COAH obligation.

Roger Thomas noted one of the townships he represents has gotten substantive certification in Rounds 1, 2 and 3, yet no consideration whatsoever was given for a reduction in the Cap. He added this was after the recent aforesaid decision by the Appellate Division. He commented “they are still playing hard ball” however this should not deter the Township from negotiations. He recommended that the 3 options offered by Jessica Caldwell, PP, should be seriously looked at to understand what the potential is. Mrs. Van Valkenburg responded that is why she has asked for discussion with this board and the Open Space Committee. Chairwoman Waldron added an attorney or an engineer is needed to be at that meeting.

Roger Thomas’s suggestion that this proposed meeting would be part of litigation. It should be an Executive Session meeting, talking about a lot of things as part of the Township’s strategy in this litigation. He reminded that Blairstown filed on or before 7/8/15, a Declaratory Judgment Action, as required by the Supreme Court. He declared, it is litigation. He explained the Township is seeking to get its Fair Share determination.

COAH is out but he explained the Supreme Court stated, any municipality can avail themselves of a procedure because COAH had a procedure and we are going to try to do a procedure too that is similar to COAH. They said to the municipalities, if they want to follow the procedure to be part of this process, the Municipality can file a Declaratory Judgment Action. He pointed out 350 towns have done this.

Roger Thomas revealed he is concerned that this suit was filed on behalf of the Township Committee. He wants to consult with the Open Public Meetings Act and Attorney Benbrook. Though he likes the idea, he noted his concern is that the more entities that are brought in, raise the question – “Is that still authorized under the Open Public Meetings Act?”.

He explained the Land Use Board is not party to that litigation. He needs to be certain that it is okay to have the LUB in Executive Session. He added, then the question becomes whether or not it is okay to have the Open Space Committee. He said “there are issues he wants to check”. He will be in touch with Kevin Benbrook.

Mrs. Van Valkenburg presented A Guide to the Future by NJ Assoc. of Realtors. She said it is repurposing stranded assets and revitalizing NJ suburbs. It lists commercial properties that are vacant and abandoned. She suggested this may be something to think about for the Master Plan.

Roger Thomas will call Kevin Benbrook but he noted this must be initiated by the Township Committee.

Darst #ZB04-10 – Compliance

Design Standards Committee

Chairwoman Waldron has reached out to 2 other municipalities, (Chester and Mendham) to ask them to forward their documentation for LUB's perusal. She clarified, this was not for the purpose of using theirs but to find out how their verbiage was formed, to apply to design standard. She hopes to have it by next month. She explained documentation is necessary to start a Design Standards Committee.

NEW BUSINESS:

None

PUBLIC PORTION:

There were no members of the Public present.

VOUCHERS: Professional services rendered.

Action: Upon a motion duly made by Mr. Mohr, seconded by Mrs. Murray, escrow vouchers, as attached to these minutes, were approved. Roll call vote: Green, Keller, Mohr, Murray, Van Valkenburg, Dalton, Waldron, Daleo and Mach – yes.

ADJOURNMENT:

Chairwoman Waldron asked the Board for a motion to adjourn.

Action: On a motion duly made by Mr. Mohr, seconded by Mrs. Van Valkenburg, and unanimously carried, the meeting was adjourned at 10:36 pm.

Respectfully submitted,

Marion C. Spriggs, Board Secretary