

**BLAIRSTOWN TOWNSHIP
LAND USE BOARD
June 20, 2016**

MINUTES

The Blairstown Township Land Use Board met in a regular session on Monday, June 20, 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, Mike Repasky, Joanne Van Valkenburg, Cynthia Dalton, Jim Sikkes, Debra Waldron, Frank Anderson, Mark Ohannesian, and Dick Mach. Dominic Daleo was absent. Also present were: Board Engineer, Ted Rodman, and Board Attorney, Roger Thomas. Board Secretary, Marion Spriggs, was absent.

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 May 16, 2016 Regular Meeting of the Land Use Board were approved, as written.

Action: A motion was duly made by Mr. Sikkes seconded by Mrs. Green to approve the Minutes of the May 16, 2016 Regular Meeting of the Land Use Board, as written. Roll call vote: Green, Keller, Murray, Repasky, Van Valkenburg, Dalton, Sikkes, Waldron, Anderson, and Mach - yes. Mohr and Ohannesian abstained.

RESOLUTIONS:

LB#04-16 Turf Pro, LLC, Blk 803, Lot 4.15- 9Artist View Ln.,Use Var (bifurcated Min Site Pl)

Roger Thomas explained the need for a *revote* on this Resolution. He said it is only those members who voted to deny the Resolution, who should be voting on this memorialization.

Action: A motion was duly made by Mrs. Waldron, seconded by Mr. Repasky, to approve **LB#04-16 Turf Pro, LLC**, Blk 803, Lot 4.15- 9 Artist View Ln.,Use Var.- Resolution of Denial. Roll call vote: Repasky, Waldron, and Anderson – yes.

COMPLETENESS:

None

DISMISS WITHOUT PREJUDICE:

LB#07-15 Anthony Furfero, Blk.803, Lot 2.10 108 Mohican Rd., Bulk Var. (40:55D- 35, 36)

Ltr. 6/6/16 – R. Keiling, Esq. requesting application withdrawal.

Roger Thomas said there is no need to take further action as the above letter will be filed. He noted it does not have to be dismissed. It is withdrawn and so reflected in these minutes.

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 noted an application was presented to the LUB several years ago which resulted in denial. He was retained to file an appeal which was done last August. The Judge in the Case Management suggested something be worked out. On 1/18/16 the Applicant appeared for a Conceptual Hearing. They talked about the modifications to the plans.

He explained that James G. Glasson, P.E., Civil Engineering, Inc., of Budd Lake, had a meeting with the Fire Chief regarding items to be done. In February the Plans were filed.

He explained the need for a variance under Sec. 36, since there is no access to a public road. He stated the simple standard is to demonstrate that access is sufficient to accommodate emergency vehicles.

Mr. Selvaggi said he forwarded Ted Rodman's Letter of Completeness to the Fire Chief for his comments. He said the response was, "if you did what was explained last time to Mr. Glasson, you should be okay". He noted Mr. Glasson will explain that the plans have been amended consistent with the Fire Chief's last comments.

Roger Thomas reviewed that the question of jurisdiction was resolved previously.

He said Mr. Clark has shown Color of Title that would allow this board to retain jurisdiction. If there is a question of access, the legality of that access, is then in front of a court of law, not the LUB. He explained this is not the LUB's consideration.

Mr. James Glasson PE, of Civil Engineering, Inc., of Budd Lake, was sworn in.

Exhibit A- 1, was marked, which is a rendered sheet 2 of 5, (rev. on 4/14/16). He explained this exhibit. He reiterated the reason they are before this board is, these 2 lots do not affront a public road.

Exhibit A-2, was marked, which is an e-mail dated 5/11/15 between Mr. Clark and Patrick Ryan, of NJ DEP, which is a synopsis of what the condition of the property was at the time of their site inspection on 5/7/15. He read that e-mail.

Exhibit A-3, was marked, which is a letter dated 2/1/16 from Wander Ecological Consultants, regarding removal of one tree in the wetland area for access of emergency vehicles.

Mr. Glasson explained that the Wetlands Permit is still opened, as work had commenced.

Exhibit A-4, was marked, which is sheet 3 of 5, a blow-up of the 2 lots picturing the corner where the bend takes place.

On 1/11/16 Mr. Glasson met with the Fire Dept. Captain and drove the driveway. The big concern was the turn. He said a right turn to enter the property must be made before crossing the wetland area. At that turn, past the utility pole, there is a 28" tree which must be removed to allow correct turning radius for their truck. There are 3 other trees, in that area, which must be removed at that same time.

Vice Chairman Sikkes asked if permission was necessary to remove the trees falling within the Easement. Mr. Selvaggi responded no. He explained when an easement is granted, with that comes the right to maintain it in order to give life to the purpose of the Easement.

Mr. Glasson declared, under that easement, they do not have the right to widen that area across the wetland. He noted they have multiple passing areas and truck turn arounds on the Applicant's 2 properties. The unpassable area is 1,800 ft.

Mr. Glasson commented they still have the valid septic and well approvals on the 2 lots.

Regarding Stormwater Management issues mentioned in Ted Rodman's 6/14/16 report, he said they've shown not disturbing more than 1 acre with ¼ acre coverage. They will stake out so as not to exceed that acre. He suggested that could be a Condition of Approval.

Ted Rodman responded that he recommends that.

Roger Thomas declared that the LUB can indicate that maintenance of the access will be maintained, if not by a Joint Maintenance, then responsibility is by the owners of the Applicant's 2 lots.

Ted Rodman asked, for clarity, if the owners of those 2 lots will be responsible for maintaining that road from their property line all the way out to Four Corners Rd. Roger Thomas confirmed that.

Ted Rodman suggested that there be details specifically, as to snow removal etc., which include acceptable terms as what the limit of the maintenance will be.

Mr. Selvaggi noted this would be subject to Mr. Clark getting a Building Permit. He said Mr. Clark is not maintaining this, if he is not going to build. He said currently there is nobody on record as having to maintain any portion of this driveway. Roger Thomas responded obviously there will be no Maintenance Agreement if there are no houses.

Chairwoman Waldron requested that Maintenance Agreement be noted on the Deed, in case of sale.

Ted Rodman reviewed his report of 6/14/16.

He addressed #5, 6, and 7.

Chairwoman Waldron asked if the Applicant must have communication with the owner beforehand. Mr. Selvaggi responded yes. He noted there have been efforts to do so, but the property owner is hesitant.

Roger Thomas commented that 2 years ago during the past Hearing, he indicated that the issues involving the rights of the Applicant regarding the ownership of the property, ownership of access, ownership of easement is beyond the LUB's jurisdiction, given the fact that Mr. Clark, through his representatives, has provided sufficient Color of Title for LUB to retain jurisdiction.

He proposed at that time, and if there is a motion tonight, he will again propose anything the LUB approves, is not intended to change any rights Mr. Clark, or anyone else affected by this application, has. If there are issues between Mr. Clark and anyone else, he declared that is an issue for the Court.

He further stated, if the LUB approves it, doesn't mean it will happen. If there is a challenge and Mr. Clark loses it, then if there is an LUB approval – that approval will not be valid. There will be a Condition that any action the LUB takes, is subject to the verification that they end up having the right. If unchallenged, they move forward. If challenged, the Court has to decide who has the rights.

This portion of the Hearing was opened to the Public.

David Zurine, 23A Four Corners Rd., Blaiirstown, was sworn in. He purchased the property from Mr. Adler. He stated there are more than 3 trees there. He said there are other opportunities out there, mentioning a dirt driveway @ 27 Four Corners Rd., which he claims, will take Mr. Clark right to his property. He said the question has been asked him multiple times, if he will allow removal of the trees, the answer is “NO”.

Wayne DeKorte, 23 Four Corners Rd., Blaiirstown, was sworn in. He said there is section that is very narrow – 8 feet. He doesn't know if a fire truck can get in there. He asked what if the firetruck runs out of water, or breaks down. He said Mr. Adler had to pay for that access. They accessed via Cobblewood and the wood lot was only used for cutting down trees. Mr. Adler bought that to build.

Mr. Selvaggi said the road has nothing to do with running out of water.

Ted Rodman noted the drawing shows 4 trees.

Roger Thomas emphasized that if it turns out there is a dispute as to whether or not the access is valid, that goes to a court of law. He emphasized to the LUB members, that is not a proper consideration for them tonight.

He explained that if Mr. Clark proves he has adequate LEGAL access, that satisfies the concern. The Statute states - whether there is adequate, safe access for emergency vehicles.

Mr. Selvaggi declared his point is, whatever the access was, it has been transformed. He said someone owns the woodland road and you have a right to get to your property.

Roger Thomas stated the only question that is legitimate at the point, is with regard to whether the LUB wants to have a letter or some other form of testimony regarding the fire access.

He reiterated he has the right to subpoena the Fire Chief. Roger Thomas suggested it needs to be clearly stated that what is sought, is an opinion regarding safety access, not legal access.

He revealed there were 2 letters received in the past which were somewhat contradictory. Currently, he pointed out, there have been modifications.

He suggested that Ted Rodman should reach out. To bring this matter to a conclusion, he suggested he simultaneously issue a Subpoena for appearance at the next LUB meeting on 7/18/16. Roger Thomas said the Subpoena will contain language that will hopefully assure that the Fire Chief will send a letter, at least 10 days in advance, or he will be required to appear. He said there will be a letter attached to that subpoena outlining what he just said. Roger Thomas wants it to be clear, the Fire Chief is not being put on the spot in the middle of this neighborhood problem.

Nick Mohr, LUB member, noted this subpoena and letter must be received before the first Tuesday in July, when they meet. Ideally, he commented, it should be delivered on or before July 1st.

Roger Thomas confirmed that he will send out the Subpoena and letter.

In summation, Roger Thomas noted the consensus is to have either a letter or the Fire Chief present at the July 18th LUB meeting.

Roger Thomas declared this matter will be carried, without further notice, until July 18, 2016.

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

Richard Keiling, Esq. represented the Applicant. He explained their testimony was brief at the last meeting, due to late hour.

Donna Pittala, Director of Family Services of Little Hill Alina Lodge, testified she has been there for 16 years. She explained the proposed Counselling Center is to be an outpatient facility. This will not only address drug and alcohol problems but mental health as well. There will be no medications on the premises. No prescriptions will be dispensed on the premises. There will be a psychiatrist who will write them.

They will have a First Aid Kit which will be an over-the-counter kit, since this is not a medical facility.

Exhibit A-1 was marked, which is an Addiction and Mental Health Services outline. Ms. Pittala described services.

Vice Chairman Sikkes asked if she feels there is a safety factor, since the elementary school is across the street. Ms. Pittala responded, she has been working with people addicted to drugs and alcohol for 26 years and they are more a danger to themselves. Chairwoman Waldron stated she is not so concerned with what is being done but where this is located.

Chairwoman Waldron asked if any people coming to them will be on medication for i.e. anger management, mood swings, etc. Ms. Pittala responded affirmatively.

Exhibits A-2 through A-9 were marked, which were photos of the inside and outside of the existing, proposed building.

Roger Thomas asked for more detail regarding screening.

Ms. Pittala cited examples of who would not be appropriate for the facility. She explained the employee responding to inquiries, would have to be a Licensed Certified Alcohol & Drug Counsellor. Prospects are asked, over the phone, why they are calling, were they referred by Probation, do they have legal issues, do they have communicable diseases, and if they have insurance. The initial call is about 15 minutes. She said a determination must be made to establish availability of specific kind of counselling on a case-by-case basis.

She noted the Bio-psycho Social, which is a one-on-one meeting, lasts about 3 hours.

Roger Thomas questioned criteria required for admission.

Ms. Pittala admitted they would be taking alcohol and or drug clients on Pre-Trial Intervention. She said they have discretion whether to accept someone who is a threat to themselves or others, since they are a private organization.

She explained in a family group setting, personal techniques and planning are set up to allow safety and the Receptionist is given a “heads up” ahead of time. She said state regs allow groups up to 12 people.

She revealed heroin addicts on methadone etc. can be counselled at the Center.

She noted they will be working with local school counsellor referrals.

This will be their 1st Counselling Center. She pointed out others exist i.e. Family Guidance Center, Washington, Phillipsburg and Hackettstown. She noted the Christian Academy is across from Family Guidance Center of Warren Cty.

This Center would treat manageable depression and anxiety but not chronic mental illness.

Ms. Pittala explained if a client is suspected of being high, a drug test is performed. They will not receive services, and they will be put on probation. If it happens again, they would be terminated from treatment.

This portion of the Hearing was opened to the Public.

Renee Herman, 70 Spring Valley Rd., Hardwick, was sworn in. She has been an employee of Alina Fdn. for 12 years. Speaking from her own family experience, having a place to go, locally, for grief counselling, etc., she said would be such a help.

Gail Romano, Hope, NJ, was previously sworn in. Her primary objective is that there is quality patient care. Her line of questions was cut off at the last meeting, due to time constraints.

Ms. Pittala informed her that William Robbins, Licensed Clinical Social Worker, will be putting together this start-up program, doing counselling and supervising counselling.

She explained if this is approved, they must apply for a license from NJ. It takes 6 mos. to 1 year. All policies, including Admission/Discharge Criteria, which is part of their Policy Manual, must be submitted before they are licensed.

Ms. Romano asked if a Needs Assessment or Feasibility Study to determine that this area is in need, has been done. Ms. Pittala responded "No". She said they looked at statistics and talked with people they know.

Ms. Pittala commented they will not be getting County or State funding or Criminal Justice System funding. Someone coming from the Court would have to pay themselves.

Anticipated clients would consist of private insurance clients, Medicare, Medicaid, and self-pay.

They are not obligated to take any person at any time. Mr. Keiling explained they will only be counselling people that they have the therapist to provide the service for. He said they will not be the end-all for all counselling.

The Director of Development for the Foundation, who is in charge of funding for the scholarship fund, noted over \$1 million must be raised each year for both facilities. It is approximately 2% of the full budget.

Chairwoman Waldron noted no new testimony is taken after 10 pm and the LUB must close-up business for the night. She asked Ms. Romano to review what she's got. Ms. Romano replied she has several other questions. Roger Thomas suggested she return. He asked if there were any other witnesses.

Mr. Keiling responded that Mr. Yurga, CFO, was unable to attend the meeting tonight due to a conference but may be a witness at the next meeting.

Roger Thomas announced that this matter will be carried, without further notice, until 7/18/16.

CORRESPONDENCE:

NJ Planner – Mar./Apr. Issue

Ltr. 5/31/16 - Jessica Caldwell, PP, re: **Housing Element & Fair Share Plan– Declaratory Judgment.**

Joanne Van Valkenburg revealed that the Township Committee has decided to wait to hear what the Judge decides. Then, possibly they will have a joint meeting, whether or not to keep COAH, or eliminate COAH, or to go with the given numbers. The concern is over money consistently being put out.

Roger Thomas will speak to her at the conclusion of this meeting.

Ltr. 6/6/16–**Weiner/Lesniak Re: Est.George B. Winter**, Agric. Subdiv., Rt.521 & Rt.608, **Hope/Blairst.**

Ted Rodman revealed in May, 2015, Hope Twp. granted an Agricultural Subdivision limiting the property usage for only agricultural purposes. It must be 5 acres. He explained a small portion of that lot was in Blairstown Twp.

A Condition of Approval was that Hope send it to Blairstown for their jurisdiction or waiver thereof.

Roger Thomas explained the “exception”, which is what they can build on, is in Hope. He noted the remainder, which is in Blairstown, is not developable under the agricultural division of land.

Ted Rodman said he doesn't believe that piece has any frontage in Blairstown. It is an un-surveyed piece that went over the Township line. He recommended this matter be waived.

Action: A motion was duly made by Mr. Sikkes, seconded by Mrs. Waldron, to waive jurisdiction of Est.George B.Winter, Agric. Subdiv., Rt.521 & Rt.608, **Hope/Blairst**. Roll call vote: Green, Keller, Mohr, Murray, Repasky, Van Valkenburg, Dalton, Sikkes, Waldron, Anderson, Ohannesian and Mach – yes.

Roger Thomas indicated the temporary LUB Secretary, Barbara Green, should notify Marion Spriggs, LUB Clerk, of this action, so she can send a letter to Hope Planning Bd. advising of action taken.

OTHER BUSINESS:

COAH

Roger Thomas indicated there has been a decision made by Judge Trancone, in the shore area, indicating that he believes there is a gap. The gap period is from 1999 until 2015 when there was no acceptable activity by COAH in regard to Affordable Housing. The Third Round criteria was never ultimately adopted and found acceptable by the Courts. The position of most municipalities is that gap doesn't exist because if you are establishing a Third Round prospective need, (meaning the next 10 years), those individuals are now captured in that Third Round.

The Fair Share Housing Center and others are taking the position that those individuals have not been served, or underserved, during that period, therefore they need to be taken into account.

E-consult took the position that there is no gap. In the event that there is a gap, they came up with an analysis of what that gap means.

He said, that generally means a lot more affordable housing.

He noted that Judge Trancone's decision was argued the beginning of this month.

He commented the Appellate Division goes by its own timeframe.

He revealed that ultimately, he thinks that decision will go to the NJ Supreme Court.

He's been told a lot of questions from the Panel seem to be inclined there is a gap. He said this is speculation.

Judge Cassidy's, of Union County, decision was, that if an affordable unit was established prior to a certain date years ago, it doesn't have to be rolled over. Therefore the individuals that are in that house, can now sell it at market value.

Darst #ZB04-10 – Compliance

Design Standards Committee

Rosalie Murray learned from the computer that what is desired can be accomplished, without setting a style. Emphasis should be on what the Township does not want.

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, Repasky, Van Valkenburg, Dalton, Sikkes, Waldron, Anderson, Ohannesian and Mach – yes.

TIME LIMITS

Mr. Repasky asked if there is any criteria regarding the amount of time the public can take in asking questions.

Roger Thomas cautioned, that someone might say to a judge, that their right to be heard was limited. He also noted that the Board has the right to control repetitive questions.

The Chair can be notified those questions have been asked and answered.

ADJOURNMENT:

Chairwoman Waldron asked the Board for a motion to adjourn.

Action: On a motion duly made by Mrs. Murray, seconded by Mr. Repasky, and unanimously carried, the meeting was adjourned at 10:14 pm.

Respectfully submitted,

Marion C. Spriggs, Board Secretary