

**BLAIRSTOWN TOWNSHIP
LAND USE BOARD
January 19, 2015**

MINUTES

The Blairstown Township Land Use Board met in a regular session on Monday, January 19, 2015, at 7:30 pm at the Blairstown Municipal Building, 106 Route 94, Blairstown, New Jersey. The following members were present: Charles Anderson, Barbara Green, David Keller, Nick Mohr, Paul Avery, Herman Shoemaker, Jim Sikkes, Debra Waldron, Harold Price, Dominic Daleo, and Mark Ohannesian. Mike Repasky and Dick Mach were absent. Also present were: Board Engineer, Ted Rodman, Board Attorney, Roger Thomas, and Board Secretary, Marion Spriggs.

SALUTE TO THE FLAG: was recited.

ADMINISTRATION OF OATHS:

ROLL CALL: was taken.

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)”.

REORGANIZATION:

At this time, Roger Thomas called for nominations for the 2015 Chairperson.

Debra Waldron was nominated as Chairwoman by Keller, and seconded by Green.

There were no further nominations made for Chairperson.

Action: The nomination for Debra Waldron to serve as Chairwoman, was duly made by Mr. Keller, seconded by Mrs. Green. Roll call vote: Sikkes, Mohr, Waldron, Anderson, Green, Keller, Shoemaker, Avery, Price, Daleo and Ohannesian – yes.

Chairwoman Waldron called for nominations for the 2015 Vice Chairperson.

Jim Sikkes was nominated as Vice Chairperson by Mr. Anderson and seconded by Mrs. Green.

There were no further nominations made for Vice Chairperson.

Action: The nomination for Jim Sikkes to serve as Vice Chairman, was duly made by Mr. Anderson, seconded by Mrs. Green. Roll call vote: Sikkes, Mohr, Waldron, Anderson, Green, Keller, Shoemaker, Avery, Price, Daleo and Ohannesian – yes.

At this time Chairwoman Waldron, called for the following nominations:

Action: The nomination for Roger Thomas, Esq., Dolan & Dolan, to serve as Board Attorney, was duly made by Mrs. Waldron, seconded by Mr. Shoemaker. Roll call vote: Sikkes, Mohr, Waldron, Anderson, Green, Keller, Shoemaker, Avery, Price, Daleo and Ohannesian – yes.

Action: The nomination for Ted Rodman, Rodman Associates, to serve as Board Engineer, was duly made by Mrs. Waldron, seconded by Mr. Sikkes. Roll call vote: Sikkes, Mohr, Waldron, Anderson, Green, Keller, Shoemaker, Avery, Price, Daleo and Ohannesian – yes.

Action: The nomination for Marion Spriggs to serve as Board Clerk, was duly made by Mrs. Waldron, seconded by Mr. Sikkes. Roll call vote: Sikkes, Mohr, Waldron, Anderson, Green, Keller, Shoemaker, Avery, Price, Daleo and Ohannesian – yes.

Action: The nomination for Barbara Green to serve as Board Secretary, was duly made by Mrs. Waldron, seconded by Mr. Sikkes. Roll call vote: Sikkes, Mohr, Waldron, Anderson, Green, Keller, Shoemaker, Avery, Price, Daleo and Ohannesian – yes.

Action: The nomination for Darlene Green, of Maser Consulting, to serve as Board Planner, by call - at an hourly rate, was duly made by Mr. Sikkes, seconded by Mr. Shoemaker. Roll call vote: Sikkes, Mohr, Waldron, Anderson, Green, Keller, Shoemaker, Avery, Price, Daleo and Ohannesian – yes.

Resolution Complying with the Open Public Meetings Act

This Resolution will include adoption of the schedule of meetings and designation of The New Jersey Herald and Star Ledger as official newspapers, complying with the Open Public Meetings Act.

Action on this matter is deferred until 2/16/15 pending LUB discussion whether to change their meeting dates to the 2nd Tuesday of each month.

NEXT LUB MEETING – 2/16/15

Roger Thomas pointed out a motion is in order to establish, Monday, 2/16/15, as the next LUB Meeting since the Official LUB Meeting calendar was not voted on at the Reorganization Meeting tonight.

Action: A motion was duly made by Mrs. Waldron, seconded by Mr. Shoemaker and unanimously approved, to set the next LUB Regular Meeting date as 2/16/15 @ 7:30 pm. There were no abstentions.

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 October 20, 2014 Regular Meeting of the Land Use Board were approved, as written.

Action: A motion was duly made by Mr. Keller, seconded by Mrs. Green to unanimously approve the Minutes of the October 20, 2014 Regular Meeting of the Land Use Board, as written. There were no abstentions.

Minutes of November 17, 2014 Regular Meeting were approved, as corrected.

Action: A motion was duly made by Mr. Anderson, seconded by Mr. Mohr to unanimously approve the Minutes of the November 17, 2014 Regular Meeting of the Land Use Board, as corrected. There were no abstentions.

Minutes of December 15, 2014 Regular Meeting of the Land Use Board were approved, as written.

Action: A motion was duly made by Mr. Anderson, seconded by Mr. Keller to unanimously approve the Minutes of the December 15, 2014 Regular Meeting of the Land Use Board, as written. Mr. Sikkes abstained.

RESOLUTIONS:

LB#01-14 Allen Gibson, Blk. 301, Lot 10.14, 8 Mountain Terr., Bulk var. – garage

Ted Rodman noted there was a rendering that was supposed to be supplied. He talked with Attorney Simon and another representative twice and e-mailed them. He still has not heard from them. Chairwoman Waldron asked if they were clear of that responsibility and that no approval of the resolution will be granted until they provide this information. Ted responded affirmatively.

COMPLETENESS:

LB#06-14 Myrtle Donuts, LLC, Block 903, Lot 2.01 – Minor Site Plan

Chairwoman Waldron noted that Ted Rodman and she will be meeting with Myrtle Donuts tomorrow to discuss further information.

This matter will be carried until the 2/16/15 LUB meeting.

Action: On a motion duly made by Mr. Shoemaker seconded by Mr. Keller, **LB#06-14 Myrtle Donuts, LLC**, Block 903, Lot 2.01 – Minor Site Plan, was deemed INCOMPLETE. Roll call vote: Anderson, Green, Keller, Mohr, Avery, Shoemaker, Sikkes, Waldron and Price – yes.

PUBLIC HEARING:

(Former LB#01-12), **LB#06-13 Clark**, Block 801, Lots 1 and 2.01 No road frontage (**carried to 2/16/15 Mtg.**)

Peter Hilgendorff, Esq. faxed a letter today re: missing pieces. He is asking this matter be carried until 2/16/2015 with the proviso that they would not be looking for a further extension. He explained he is trying to obtain deeds back into the 1800s.

He said they want to be sure they have all the documents so they can address everything that was requested by Mr. Berry.

He stated he believes he can put a response together one way or another for the LUB 2/16/15 meeting and bring this to a conclusion.

Chairwoman Waldron stressed that Notice must be served again since the last Notice was in June, 2014. Attorney Hilgendorff agreed to renotice.

This portion of the Hearing is open to the public. There were no questions or comments.

This motion is made for procedural purposes.

Action: A motion was duly made by Mr. Shoemaker, seconded by Mr. Price to agree to carry, **LB#06-13 Clark**, Block 801, Lots 1 and 2.01 No road frontage, to the February 16, 2015 Regular Meeting of the Land Use Board. Roll call vote: Anderson, Green, Keller, Mohr, Avery, Shoemaker, Sikkes, Waldron and Price – yes.

LB#02-14 NWRHS, Blk.1402, Lot 21.02, 10 Noe Rd., - **Rezone** request

Attorney Fox explained the request is from an R-5 to a new educational zone which would require a new Ordinance. He stated the School has no objection to the draft Ordinance written by Darlene Green, PP, for the Township.

Darlene Green,PP, pointed out changes recommended on the Draft, noting:

On pg. 1. Square footage was removed under indoor recreational facility for more flexibility.
On pg. 2 Off-street parking, E 2. the word “office” was added to be more specific.
Sec. G - added lighting standards from the Code to this public school zone, which she then read.

Mr. Price suggested on pg. 3 “Planning Board” be changed to “Land Use Board”.
Chairwoman pointed out “Land Use Board” must be reflected throughout.

Roger Thomas clarified the only additional building signage would be an additional 90 sq. ft.

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

Mr. Keller asked how much oversight the Board would have, if this was approved by Township Committee, over future applications.

Roger Thomas stated they would still be required to come before the Board for informational purposes by Educational Statutes Title 18, as well as the Municipal Land Use Law. He clarified the Board would not have the right to determine educational purposes.

He stated an example, if they were putting up a building addition for classrooms, the Board has the right to talk to them about site planning issues. He clarified this would not be by way of approval or denial. The Board would have the right to make recommendations. Then those recommendations would go to the Dept. of Education in Trenton for review.

Roger Thomas declared if they don’t meet the Ordinance, they would be back as an Applicant, presumably for a variance.

Mr. Daleo asked if a stadium was desired, would it have to be approved by the Bd. of Ed., not the Land Use Board. Roger Thomas responded it would require a Referendum to authorize them to put it up.

Chairwoman Waldron asked what the dollar limit would be. Dr. Fogelson explained Boards are allowed to enter into 5 yr. maximum lease-purchase agreements under some circumstances. He noted that would've been the circumstance for them to move forward on Multi-Purpose Building LB#03-14, for which this Board granted approval last year. He said at the time, that would've been up to a maximum of \$750,000. amortized over the 5 yrs. He said it is for very specific reasons, otherwise you have to go to a public Referendum.

Attorney Fox said even though it is called a lease-purchase, it still appears in their budget and has to be adopted by the Board of Ed.

Christine Sharkey, Business Administrator for NWRHS, was sworn in. She said NWRHS is allowed to finance capital improvements for 5 years. Anything beyond 5 years has to go to public Referendum. It is not so much a dollar amount, as it is a cover period of what you can afford over so many years.

Chairwoman Waldron asked if there were any questions from the Board.

Mr. Ohannesian noted this proposal seems to remove a layer of control.

Vice Chairman Sikkes read a statement which he had prepared. It said,

“I reviewed the application carefully and have a difficult time understanding the reason to change the zone. NWRHS is reviewed by the State for their budget, any changes or additions, and the grounds. Our review is for the conformity to zoning and planning”.

An example from the past is solar panels for which the Board made their recommendation for the best interest of the Applicant, and for the Township.

The NWRHS sign on Rt. 94 was also reviewed with recommendations by the Board to make it functional and desirable to everyone's benefit.

As a Board, we've worked hard over the years and made many changes to our Master Plan. The Board's experience has been to do the best for the Applicant and the residents of the Township.

I do not feel this is in the best interest of Blirstown to change a zone and lose control of a major complex within our Township.

I respect the Regional Board to do their best but the zoning, planning and engineering should stand with the Land Use Board. Thank you.”

Attorney Fox responded their Application is based upon the notion there really is no way around the fact that this property is zoned, residential - 5 acres. It has been used for educational purposes for over 4 decades. He said it should've been changed at its inception in the 1970s.

He said there are many controls that the School Board must go through in order to get approvals from the State. It is a question of what is an appropriate control level. He explained almost everything they do requires a variance under the R-5 zone. He feels an appropriate zone would be public educational use. He commented it would be cheaper for the taxpayers.

Dr. Fogelson stated they began the process at the Land Use Board's recommendation. They tried to create a comprehensive new zone. They've worked with Mrs. Green PP, who they think has done a magnificent job.

Chairwoman Waldron agreed, stating the Board wanted a balance on both sides.

As Dr. Fogelson understands, he said, NWRHS must come back when they are non-conforming. He said the Board has authority to control what is back in their purview requiring what steps are necessary to conform. He feels it is a bit of sharing of control.

Ms. Waterbury noted that non-conforming use status presents a higher burden of proof for Use Variances, thereby putting the School at a disadvantage. She explained what this draft ordinance is saying is that this Board is giving guidelines for development but acknowledging the School is a permitted use on that particular lot.

Regarding the Master Plan, she explained, it is shaping Township vision of what the town is going to be. It looks to provide everything the community needs. She noted often schools are put under "public lands" since they are part of the public services that are required for a town.

Chairwoman Waldron asked the Board members if they all understood what was presented by the Applicant's Planner and Mrs. Green, PP, for the Board.

Chairwoman Waldron asked if there were any more questions of the Applicant or Planners.

Roger Thomas explained this motion is for a favorable referral of a Draft Ordinance to the Township Committee.

Action: A motion duly made by Mayor Shoemaker, seconded by Mr. Avery, to refer a Draft Ordinance, (written by Darlene Green, PP, for review by Land Use Board), for **LB#02-14 NWRHS**, Blk.1402, Lot 21.02, 10 Noe Rd., - **Rezoning** request, to Township Committee. Roll call vote: Mohr, Avery, and Shoemaker – yes. Anderson, Green, Keller, Sikkes, Waldron and Price – NO. There were no abstentions.

CORRESPONDENCE:

NJ Planner Nov./Dec. 2014

OTHER BUSINESS:

Chairwoman Waldron revealed that she and Ted Rodman have met in an effort to alleviate some concerns they feel the Board might have with applicants that are coming before them. Initially these applicants had a certain idea about the appearance of the proposed buildings. Now they have come to negotiate with Ted Rodman & her. She is pleased with the outcome. One of these applicants is to come before the Board next month. They expect to meet with the other, tomorrow.

2014 Land Use Board Annual Report

Roger Thomas noted this report will be ready next month.

Darst #ZB04-10 – Compliance

COAH

Roger Thomas noted there was a Hearing within the last 2 weeks in front of the NJ Supreme Court brought by Fair Share Housing Group. They noted that COAH has ignored the demands of the Court. They argued, all municipalities should be subject to the jurisdiction of the Court and prior benefit of certification should be removed. Everyone in the State would be subject to Builders' remedy lawsuits.

He noted the Supreme Court has not made any decisions on that. The Deputy Attorney General responded negatively when asked if COAH has made any effort to comply pursuant to the directives of the Court.

He said there were representatives from the NJLM and other municipalities present.

He has no idea when a decision will be made.

Attorneys who argued the case, recommend all action be taken to satisfy past obligations, also to satisfy what is believed to be any existing obligations under Round III.

Darlene Green said she is highly concerned. She noted the Round III rules have changed 3x already.

Darlene Green advised to never opt out of Certification.

Roger Thomas pointed out to opt out of Certification, would create a situation where the Township has no rights. He explained a builder could purchase land anywhere and put housing there even if it was in the worst location. This would take zoning out of the Municipality's hands. He reiterated his recommendation to never, ever, opt out of Certification.

Mayor Shoemaker questioned how many large-acre parcels exist here in which a builder could be interested. Roger Thomas' response was "how much vacant land do you have"? Mayor Shoemaker responded that is what he means. He asked how many 100 acre parcels are available that are not already in farmland preservation. Jim Sikkes responded there's quite a few.

Roger Thomas advised that the Township needs to establish what their Plan tells them to do. If that Plan hasn't been complied with, there are additional problems. He said if the Township has a lot of land which is not protected under Farmland Preservation, there is a big problem.

He said it is his recommendation to Township Committee, to be prepared. He recommends Darlene Green, be selected, to figure where the Township is regarding Open Space and possible developable land, and where the Township's Plan stands. He does not foresee any problem with Rounds I & II, but advises taking whatever steps possible, to proceed with Round III. He concluded, without that information at hand, there may be problems. Chairwoman Waldron agreed.

Roger Thomas pointed out the purpose of this legislation was not to protect towns but rather provide low and moderate income housing for individuals who do not have it and have been excluded from towns like this. He said 5 acre zoning makes it incredibly difficult for somebody with limited income to locate here.

Chairwoman Waldron sees business seeking Blairstown for development. As a builder, she is seeing a lot of growth from the city up. She suggests this is something for Township Committee consideration.

Chairwoman Waldron would like to have a Joint Meeting with Township Committee and Land Use Bd. regarding COAH.

Mr. Price commented on Agenda 21 which takes away home rule. He will send information re:same. He said this has been ongoing for almost 5 years.

NEW BUSINESS:

PUBLIC PORTION:

No members were present.

VOUCHERS: Professional services rendered.

Action: On a motion duly made by Mr. Keller, seconded by Mr. Anderson, escrow vouchers, as attached to these minutes, were approved. Roll call vote: Anderson, Green, Keller, Mohr, Avery, Shoemaker, Sikkes, Waldron and Price – yes.

ADJOURNMENT:

Chairwoman Waldron asked the Board for a motion to adjourn.

Action: On a motion duly made by Mr. Mohr, seconded by Mr. Sikkes, and unanimously carried, the meeting was adjourned at 9:05pm.

Respectfully submitted,

Marion C. Spriggs, Board Secretary