

**BLAIRSTOWN TOWNSHIP
LAND USE BOARD MEETING
November 16, 2015**

MINUTES

The Blairstown Township Land Use Board met in a regular session on Monday November 16, 2015, 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, Mike Repasky, Paul Avery, Herman Shoemaker, Debra Waldron, Dominic Daleo, and Mark Ohannesian, and Richard Mach. Jim Sikkes was absent. Also present were: Board Engineer, Ted Rodman, Board Attorney, Roger Thomas. Board Secretary, Marion Spriggs, was absent.

SALUTE TO THE FLAG: was recited.

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)”.

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.

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

Minutes of the October 19, 2015 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 approve the Minutes of the October 19, 2015 Regular Meeting of the Land Use Board, as written.
Roll call vote: Green, Keller, Mohr, Repasky, Avery, Shoemaker, Waldron, Daleo, Ohannesian and Mach - yes.

RESOLUTIONS:

LB#04-15 Frank Diehl & Allan Brucato, (fmr. Blairstwn Amb Bldg.), 2 Stillwater Rd., Blairstwn, Blk. 1103, Lot 11 -- Use Var.

Paul Avery and Mayor Shoemaker were recused on this application.

Mr. Brucato asked for clarification of outdoor storage during business hours.

Chairwoman Waldron clarified that no work be done on vehicles outside, during business hours. She understood that everything was to be maintained in the shop during business hours for appearance sake.

Mike Repasky understood there would be nothing stored outside after closing. During business hours, if something was outside, that was ok. Another LUB member concurred with that.

Mr. Brucato agreed that was his understanding also.

Roger Thomas suggested Condition #2 be modified to read “this approval is subject to the requirement that there will be no repair activity outside the building and that no displays will be allowed outside the building. Vehicles, during business hours, will be allowed outside the building.” To reiterate, there will be no outside storage after business hours.

Mr. Brucato said he has no problem with that.

Roger Thomas agreed to do the modification.

Action: A motion was duly made by Mr. Mohr seconded by Mr. Daleo, to approve the Resolution for **LB#04-15 Frank Diehl & Allan Brucato**, (fmr. Blairstwn Amb Bldg.), 2 Stillwater Rd., Blairstwn, Blk. 1103, Lot 11 -- Use Var. with the aforementioned modification of Condition #2. Roll call vote: Green, Keller, Mohr, Repasky, Waldron, Daleo, Ohannesian and Mach - yes.

COMPLETENESS:

LB#06-15 1st Presbyterian Church of Blairstown, Blk. 1206, Lot 1, 1 Main St., Prel & Fin Major Site Plan

Chairwoman Waldron declared for-the-record that she is a neighbor, but not within 200’, and does not have a familiar relationship, so there is not conflict of interest.

Attorney O’ Connell, of O’Connell & Sussman, Blairstown, who is representing the Applicant, noted he did not receive Ted Rodman’s Report of 11/10/15 but had an opportunity to look at it briefly later.

Ted Rodman explained that they have asked for waivers for a landscape plan, as they are not doing any. They have asked for waivers for lighting detail, for which they are not showing any. He said the height of the new addition is not shown but can be waived for Completeness only, but added later.

His recommendation is this application be deemed Complete with the aforesaid waivers.

There were no questions or comments from the public.

Action: A motion was duly made by Mr. Keller seconded by Mayor Shoemaker, to deem **LB#06-15 1st Presbyterian Church of Blairstown**, Blk. 1206, Lot 1, 1 Main St., Prel & Fin Major Site Plan – Complete with the aforesaid waivers. Roll call vote: Green, Keller, Mohr, Repasky, Avery, Shoemaker, Waldron, Daleo, Ohannesian and Mach - yes.

LB#07-15 Anthony Furfero, 108 Mohican Rd., Blairstown, Blk.803, Lot 2.10– Bulk Var. Sec. 35/36

Richard Keiling, Esq. representing the Applicant, explained this is an application for a property not having frontage on a township road.

He has a copy of Ted Rodman's Report of 11/10/15. He noted to satisfy Ted Rodman's concern, the Applicant will be willing to provide construction drawings or some detail.

They can show where the property lines are concerning any intended driveway work.

Roger Thomas explained there is no Completeness Review for Sec. 35/36. He noted a Bulk Variance will be needed.

Mr. Keller noted the Plan submitted was prepared in 1975 and not prepared pursuant to this application.

Mr. Keiling responded this Plan was approved by the Planning Board in 1979, there was a subdivision that was granted at that time. He noted that the current ordinance now requires frontage on an approved Township Road. He pointed out they went to the Zoning Officer who indicated a Zoning Permit would not be granted, unless they came before this Board, since the approval is so old.

Ted Rodman noted the Ordinance has greatly changed. This property does not front on a township road, which is now required for a Building Permit. This confirms why they are before this board.

Mr. Keiling commented that maybe the Application should be amended as an Interpretation.

Roger Thomas noted these were existing, non-conforming lots created in 1976. If there has been a change in the Ordinance requiring road frontage at this time, approval of this board for a building permit, would be required. He stated Ted would know. He said he would agree with Ted that if there have been changes that affect this zoning, a variance would be required.

Mr. Keiling further added that he met with the Zoning Officer re: adjacent Lot #2 with the flag stem. Mr. Diehl indicated he would issue a building permit for that property because it had frontage, though it is a flag stem.

Mr. Keller explained there is now 5 acre zoning. He pointed out this lot has 6.022 acres.

Roger Thomas recommended action be taken regarding the proposed bulk variance. He noted there is no Completeness review for Sec. 35/36.

Mr. Keiling will call Mr. Thomas tomorrow.

Action: A motion was duly made by Mr. Avery seconded by Mr. Daleo, to deem **LB#07-15 Anthony Furfero**, 108 Mohican Rd., Blairstown, Blk.803, Lot 2.10– Bulk Var. Sec. 35/36 Incomplete. Roll call vote: Green, Keller, Mohr, Repasky, Avery, Shoemaker, Waldron, Daleo, Ohannesian and Mach - yes.

PUBLIC HEARING:

LB#05-15 Turf Pro, LLC, 9 Artist View Lane, Blairstown, Blk. 803, Lot 4.15 - – Use Var

Mayor Shoemaker and Paul Avery were recused on this application.

Richard Keiling, Esq. represented the Applicant.

The Applicant, Harold Finch, is the grandson of the owners of the 6 ½ acre property. He has lived there for 33 years. This property was used for farming. His grandfather took care of the private road and kept a dump truck, backhoe & plow truck and various other equipment. The road was gravel and impassible during winter storms.

There are 2 enclosed trailers, 4 opened trailers and a couple for personal use, i.e. for ATVs, stored there now. Mr. Finch stated the equipment trailer is about 20 ft. long, 2 ft. off the ground. The enclosed trailers are about 16 ft. to 18 ft. long. There is not a tractor trailer. The open maintenance trailers are about 20 ft. long.

While he was in college, he operated a landscaping and snow plowing business there. He has been in business there for 13 or 14 years.

Turf Pro does landscaping, cutting, spring & fall cleanups. He plows commercial sites only. He currently plows the lane on which he continues to live. For larger jobs like Acme, he stores the

equipment there until spring, then it is stored onsite. Tools are stored in the barn with concrete floor.

For landscaping he has mowers, bush hogs and weed whackers. He grows various plants onsite. He cuts underbrush on one side of the road, as the Township does not do that. Hours of operation 7:30a to 5pm. Maximum number of employees is 5 or 6. Two or three of employees park on site. He currently runs 2 trucks out of the yard.

No public visit the site. Mr. Finch agreed to this being a condition.

He testified he has been trained, and is licensed by DEP to spread herbicides and pesticides. The DEP last visited the site 2 months ago. The pesticides are stored inside the garage in a locked-pesticide cabinet, as desired by the DEP. They store mostly herbicides.

Mr. Keiling stated they are bifurcating the Application. They are seeking a D Variance. If granted, they would have to return with a Site Plan. At that time, the Board can pose restrictions on the operation. For example, he explained to Mr. Finch that he can't add to Exhibit A-1 Equipment List. Mr. Finch responded that he understands that.

Chairwoman Waldron asked what brought him here tonight.

He responded David Diehl, Zoning Officer, contacted him stating there was a complaint from the Mayor, with the amount of vehicles stored on a residential property. Mr. Diehl stated Mr. Finch had to come before this Board since he was storing more than 2 commercial vehicles.

Mr. Keiling interjected that he thinks someone contacted the Mayor. The Mayor then, contacted the Zoning Official.

Mr. Finch filed an OPRA and found out there was no official complaint. He would like to know the answer to that question.

Chairwoman Waldron asked if the property is farm assessed. Mr. Keiling revealed for-the-record, it is not farmland assessed.

Chairwoman Waldron asked how big the nursery is. Mr. Finch responded sun material is kept on the deck. The shade material is stored in back in 50ft. x 50ft. area. Also some is kept in the old horse field about 100 ft. x 100 ft.

There are no gasoline, kerosene or diesel tanks stored. There are five to six -2 ½, and four to five -5 gallon gas containers stored in the barn for weed whackers etc.

This portion of the Hearing was opened to the public.

Charles DiStasi, 13 Artist View Ln., questioned what Mr. Finch did with the tractor trailer that was stored on the property, is it on the equipment list and will it come back.

Mr. Finch revealed he also leases a property in Montague, NJ. That is where he stores salt for Artist View Ln., in a salt bin. Sometimes he brings the referenced trucks back. He stated he hasn't in a very long time.

There were no further questions from the public at this time.

John Hansen, PE, of Ferriero Engineering, Inc., Chester, NJ, was sworn in. He testified the 6.3 acre-property is well screened. The activity is in the center and lower part of the property providing further screening. He noted the surrounding properties include single-family homes on large lots. He mentioned this road is in good condition and Mr. Finch does most of the maintenance and nothing structurally has been done for 20 years.

He said there are no environmental constraints, i.e. no floodplains, no wetlands.

There is underground electric.

He described the exhibits.

The following exhibits were marked:

Exhibit A-1 Existing On-Site Equipment List

Exhibit A-2 Aerial view dated 11/16/15

Exhibit A-3 Photo board dated 11/13/15

He indicated the activity has been operating 13 to 14 years with generally no complaints.

Positive criteria was presented as providing a viable business in Blirstown benefitting general welfare of the community. The location was appropriate to this type of use.

He testified there was no substantial negative impact. The Master Plan purpose is fostered, which permits controlled nonresidential development. He noted, this would be providing an improved commercial base.

Ted's Report of 9/17/15 was reviewed.

This portion of the Hearing was opened to the Public.

Karen Klein, 12 Artist View Lane, was sworn in. She lives across the road, and has a horse farm. She said she has only positive things to say about Mr. Finch who has helped her in the past.

Donald Jacobsen, 12 Artist View Lane, was sworn in. He seconds what his wife just said. He has no problem with what the applicant is seeking.

Charlie Distasi, 13 Artist View Lane, was sworn in. He agrees with the neighbors that Mr. Finch is a good businessman. He moved in 2006 to this residential area, and has seen Mr. Finch's business grow from a pickup truck & trailer. He believes the business has expanded 10 fold since then. The road is very narrow and he is concerned about safety. His side meets where Mr. Finch stores most of his equipment and as a result, hears the noise produced by the equipment.

Mrs. Bolcato, 6 Artist View Lane, was sworn in. She has been there since 2001 and has no problem with the existing business.

Zenon Zysk, 17 Artist View Lane, moved 5 years ago from Staten Is. He stated it's not so much the optics but it is a commercial environment in a residential area. He feels it is an extensive operation. There are heavy trucks coming in and out. The storm equipment is returned in the summer. He sees it as being a heavy commercial enterprise and objects to that being in a residential area.

Henry Meninger, 15 Artist View Lane, is the President of the Homeowners' Association. He has concern for his residential property. He questioned if the property is deemed commercial and someone else comes in, is that going to cause problems.

Roger Thomas responded, if the variance was granted, conditions would be limited to Mr. Finch. If someone else bought it, that individual would not be able to expand it without further approval. It would have to be this use, this activity.

He said although variances run with the land, you would have to get the consent of the owner to the conditions.

Jane George, 73 McKinley Rd., E. Hanover, NJ, was sworn in. She owns the property at 11 Artist View Lane which she bought for retirement. They have no objections to having a business next door.

This portion of the Hearing was closed to the Public.

Ted's Report of 9/17/15 was reviewed. Ted Rodman noted that if the variance is approved, there will be a Site Plan.

Chairwoman Waldron expressed her concern about homeowners getting hurt financially i. e. road repair brought on by heavy trucks, or physically, as a result of this business. She is concerned about pollution from chemicals and feels gas storage should be limited. She said originally this was a farm which was allowed in an R-5 zone, a commercial business is not.

Roger Thomas suggested conditions as follows:

No public on site in conjunction with the business

Approval not run with land with the Applicant's consent

Maximum of 6 employees

Control of herbicides, pesticides – all the “cides”, that would be subject to the Site Plan

The Equipment List be more specific i. e. make & models

(Mr. Mohr said type of trailer and size should be of interest, as trailers wear out. Chairwoman Waldron agreed.)

Metes & Bounds description of the gravel and plant storage areas

Employee parking be moved to the Storage Area

There be a Site Plan subject to the jurisdiction of Storm water as well as showing the tanks on Site Plan

No vehicles maintenance allowed on site

Maximum allowance of 25 gallons of gasoline in portable, safety containers on site

Snow melting material storage be only for Artist View Lane

Chairwoman Waldron questioned Property Maintenance Agreement. Mr. Finch’s household would be responsible for 2 fractions of road repair cost. Mr. Keiling said that would be 2/18ths of 18 members on the road.

Roger Thomas explained to the Board, this is a D variance which requires 5 affirmative votes. He noted there are 8 voting members here tonight. He suggested procedurally, there should be an affirmative motion for purposes of getting the vote on the table. To clarify, he said, by making an affirmative motion, it doesn’t mean the mover is in favor of it. He reiterated if it does not get 5 affirmative votes, it fails.

Action: A motion was duly made by Mr. Daleo seconded by Mr. Repasky, to approve **LB#05-15 Turf Pro, LLC**, 9 Artist View Lane, Blairstown, Blk. 803, Lot 4.15 -- Use Var for the above-listed reasons. Roll call vote: Green, Mohr, Daleo – yes. Keller, Repasky, Ohannesian and Waldron – no. Mach – abstained.

CORRESPONDENCE:

None

OTHER BUSINESS:

None

COAH

Roger Thomas explained that Kevin Benbrook, Esq. filed a motion to extend the time in which the Township has immunity. That will be heard before Judge Miller. The date is uncertain.

Mayor Shoemaker added, at the last Township Committee meeting, there was a consensus of going out for bids from other planners, during discussion of having Maser Consulting to do the Fair Housing Element.

Chairwoman Waldron requested the LUB be informed, as they generally agree with the same Planner.

COAH (cont. from last mtg.)

Chairwoman Waldron reminded the Mayor to present her last month's suggestion to Twp. Comm. for consideration, re: waiving COAH fees for victims of circumstance who must rebuild.

LUB Application Drawing Sizes

Mr. Keller pointed out that tonight there was a plan that was 30x42 which is cumbersome for the members to look at. He suggests a certain number of full-sized drawings be obtained, and the remainder, half-sized.

Ted Rodman pointed out there is a checklist specifying the size and number of drawings. This checklist will have to be modified. He said a lot has to do with the size of the application, i.e. with a 50 acre parcel, it gets reduced.

He noted this requires an Ordinance change.

LB#02-14 NWRHS Re-zone

Chairwoman Waldron asked the Mayor if the info that was forwarded to Twp. Comm. was read into the record, for NWRHS Re-zone request. He responded they were there at the last meeting. After a lot of discussion, the conclusion was a waffle.

1. Some Board members wanted to know how much money the Bd. of Ed had spent in going through the process, as it was, and still is, working.
2. Mr. Benbrook was asked to review the Draft of the Ordinance to make it a Conditional Use.

Roger Thomas asked for clarification from the Mayor regarding, if the Twp. Comm. has authorized Mr. Benbrook to look into the possibility of making the zone change – a Conditional Use.

The Mayor responded Mr. Benbrook was reviewing the content of the Conditional Use Zone change recommended. Roger Thomas clarified “A Conditional Use, within the R-5 Zone”.

Chairwoman Waldron noted that she was not aware the Twp. Comm. meeting was changed. She explained that since she is an integral part of this, she would like to know if the Twp. Comm. changes their meeting date.

The Mayor noted Attorney Fox, for NWRHS, is coming again to the Twp. Comm. on 12/2/15 Mtg., at their regular meeting.

Paul Avery interjected, it was his impression that Twp. Comm. wanted to have someone from LUB there representing.

NEW BUSINESS:

None

PUBLIC PORTION:

There were no members of the public present at this time.

VOUCHERS: Professional services rendered.

For the record, Chairwoman Waldron, asked the Board to sign-off on 2 vouchers, for \$310. & \$217. from Ted Rodman, which arrived after Marion Spriggs left. This will enable a motion to bundle the vouchers. The LUB members agreed to do so.

Action: On a motion duly made by Mr. Keller, seconded by Mr. Mohr, escrow vouchers, as attached to these minutes, were approved. Roll call vote: Green, Keller, Mohr, Repasky, Avery, Shoemaker, Waldron, Daleo, Ohannesian 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 Mr. Shoemaker, and unanimously carried, the meeting was adjourned at 9:45pm.

Respectfully submitted,

Marion C. Spriggs, Board Secretary