

**BLAIRSTOWN TOWNSHIP  
LAND USE BOARD  
February 16, 2015**

**MINUTES**

The Blairstown Township Land Use Board met in a regular session on Monday, February 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, Paul Avery, Herman Shoemaker, Jim Sikkes, Debra Waldron, Harold Price, Dominic Daleo, and Mark Ohannesian and Richard Mach. Charles Anderson and Mike Repasky 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:**

Richard Mach was sworn in as an Alternate #4 member, whose term expires on 12/31/16.

**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)”.

**Resolution Complying with the Open Public Meetings Act**

There was a discussion regarding switching the current 3<sup>rd</sup> Monday of the month meetings to 2<sup>nd</sup> Tuesday of the month. This was a consideration since the LUB has met consistently for years, on 2 holiday weekends – Martin Luther King in January, and Presidents’ weekend in February during which Town Hall is closed.

Chairwoman Waldron divulged that a poll amongst members revealed 4 members would not be able to remain on LUB if meetings were switched to the 2<sup>nd</sup> Tuesday.

Roger Thomas noted the official calendar could be adopted and published and those holiday meetings could be addressed individually later. The Resolution, referred to in the above heading, was adopted.

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:** A motion was duly made by Mr. Sikkes, seconded by Mr. Keller to adopt the schedule of meetings on the 3<sup>rd</sup> Monday of each month and designate official newspapers as The New Jersey Herald and The Star Ledger, complying with the Open Public Meetings Act. Roll call vote: Green, Keller, Mohr, Avery, Shoemaker, Sikkes, Waldron, Price and Daleo. – yes. 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 January 19, 2015 Regular Meeting of the Land Use Board were approved, as corrected.

**Action:** A motion was duly made by Mr. Keller, seconded by Mrs. Green to approve the Minutes of the January 19, 2015 Regular Meeting of the Land Use Board, as corrected. Roll call vote: Green, Keller, Mohr, Avery, Shoemaker, Sikkes, Waldron, Price and Daleo – yes. There were no abstentions.

**RESOLUTIONS:**

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

Ted Rodman noted the applicant supplied the requested material, which arrived on Friday. Roger Thomas declared that it would be appropriate, at this time, to memorialize the Resolution.

**Action:** A motion was duly made by Mr. Shoemaker, seconded by Mr. Keller to approve the Resolution for **LB#01-14 Allen Gibson**, Blk. 301, Lot 10.14, 8 Mountain Terr., Bulk var. – garage. Roll call vote: Keller, Mohr, Avery, Shoemaker, Waldron, Price and Daleo – yes. Green and Sikkes abstained.

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

No action taken. (See Correspondence below).

**COMPLETENESS:**

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

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

**LB#01-15 CGP Acquisition & Dev., LLC (Dollar General/Grater LLC)**, Blk. 904, Lot 8.05, 110 Rt. 94 – Prel. & Final Major Site Plan, + Bulk Var.

Jason Tuvell, Gibbons, P. C., Newark, attorney for the applicant introduced himself and, Samuel Chung, PE, Dynamic Engineering, Lake Como, NJ, site engineer for the applicant.

Attorney Tuvell reviewed Ted Rodman’s report of 2/13/15 and does not have issues with any of the items that he’s raised.

Ted Rodman stated there are 8 Items for Completeness.

Roger Thomas noted to expedite this, the following items: Item #3, and 6, on the Preliminary approval, and Items #8, 9, 10 and 11 on the Final Major Site Plan approval, are requested to be waived. Ted Rodman said he has no problem with that.

Roger Thomas noted for Items #1, 2, 4, 5, & 7, that Ted Rodman does not have a note regarding for a request for waivers, as he did on the others.

Attorney Tuvell explained Item #7. He said their architect is licensed but didn’t have his seal yet. A letter, dated 2/3/15, was provided by Rob Walker, AIA, stating he is a licensed architect in NJ, but has not signed the plans as he is awaiting his seal from the State. Attorney Tuvell offered to make this a condition of Final, if the seal doesn’t arrive sooner.

Roger Thomas asked Ted Rodman if he agrees to indicate that Items #1, 2, 4, 5, & 7 be deemed INCOMPLETE, hopefully, with the opportunity, to advance the matter at the next meeting. Ted Rodman responded affirmatively.

Attorney Tuvell responded “That’s fine. There are no issues”. He said he thought Item #4 was that they would supply the Board with a copy of the County Health Dept. Approval on the septic system. He said he thinks that was more of a waiver than something to be put on the Plan.

Mayor Shoemaker noted the location of the township well is NOT noted on the Plan. He pointed out it looks awfully close, from where he knows it exists.

Samuel Chung, PE, explained the septic will be placed outside of 150 feet, from any well. He noted they are under the jurisdiction of the Board of Health regulations.

Mr. Chung agreed to take a look at that. He said if it is an issue they will bring it to Ted Rodman's attention.

Roger Thomas declared, that being noted, it would seem appropriate that the application should be deemed Incomplete in regards to Ted Rodman's Report of 2/13/15, Items #1, 2, 4, 5 & 7.

Attorney Tuvel questioned Item #5 regarding the stream. He said they have no problem addressing that however, they have requested an update from the initial Flood Hazard Area Permit of 2009. Once they have confirmation from the DEP, they believe the issue, that it is not within a flood hazard area, will be addressed. They are hoping that could be a waiver. They are assuming that they do not need a Flood Hazard Area Permit to satisfy that requirement. Ted Rodman responded it would be satisfied however, if it is within a flood hazard area, they would have to go back and do more work.

Roger Thomas interjected that would eliminate Item #5. He confirmed Incompleteness would then be for Items #1, 2, 4, & 7.

Mr. Chung apologized that he had not mentioned this sooner.

Mayor Shoemaker asked for confirmation that the County Dept. of Health rule is 150 feet. The answer was yes.

Chairwoman Waldron asked for a motion to deem this Incomplete.

**Action:** A motion was duly made by Mr. Shoemaker, seconded by Mr. Avery, to deem the **LB#01-15 CGP Acquisition & Dev., LLC (Dollar General/Grater LLC)**, Blk. 904, Lot 8.05, 110 Rt. 94 – Prel. & Final Major Site Plan, + Bulk Var., INCOMPLETE for Items #1, 2, 4, & 7. Roll call vote: Green, Keller, Mohr, Avery, Shoemaker, Waldron, Price and Daleo – yes. Sikkes – abstained.

**PUBLIC HEARING:**

(Former LB#01-12), **LB#06-13 Clark**, Block 801, Lots 1 and 2.01 No road frontage

Peter Hilgendorff, Esq. stated due to the holiday, he did not get a response from Mr. Glasson, PE, regarding Ted Rodman's 2/12/15 report.

Ted Rodman reviewed his 2/12/15 report.

#2. Ted Rodman noted Robert Berry, LS's, memo 8/5/14, concurs that trail of easements does indeed provide ingress and egress from Four Corners Road to the subject lot.

Previous exhibits up through Exhibit A-8 were marked at the last Hearing in April 21, 2014,

Exhibit A-9 was marked, which is Attorney Hilgendorff's letter of 2/5/15 with the attachments. For the record, there was a response by Mr. Berry through Rodman Assoc., dated 2/11/15.

Roger Thomas noted there is sufficient colorable Title based on Mr. Berry's response.

Exhibit A-10 was marked, which is Affidavit of Darren Occhiuzzo, Fire Chief, dated 7/9/14, re: Fire Truck access, in response to Item #1.

Item #1. Ted Rodman pointed out there were 2 letters from the Fire Department. He said there was an earlier correspondence, as well as an Affidavit. He noted there is a discrepancy between them to be settled. Attorney Hilgendorff does not have a copy of the earlier correspondence.

He does not have anything from the Ambulance Squad. He claims to have sent voice mails and emails which drew no response.

Item #1 (continued). There is a tree as per Mr. Adler's letter of 2/3/15, which must be removed for emergency vehicles.

Attorney Hilgendorff indicated that Mr. Glasson, PE, has not put together new plans regarding this. Power lines will be a consideration. They are waiting to see if the Application will be granted.

Chairwoman Waldron noted it is necessary to provide something in writing, stating Mr. Adler agrees to removal of the tree.

Vice Chairman questioned the ROW and JCP&L's involvement, indicating permission would have to be granted by them.

Roger Thomas asked if the tree is the issue. If it is removed, he further questioned, will that take away the concerns raised by the Fire Department in Item #4?

Ted Rodman responded the tree is only part of the issue. He said it's the corner, and the width of the driveway.

Roger Thomas explained the fundamental issue is access by emergency vehicles.

He noted that Attorney Hilgendorff has proposed the tree is the fundamental problem. Attorney Hilgendorff pointed out the Affidavit addressed 2 issues. He said the second issue is maintaining the width in winter when it comes to plowing, which would be part of the Driveway Maintenance Agreement. He explained it would be a Condition of Permit.

Vice Chairman Sikkes asked who would enforce that. Roger Thomas responded it would depend on the rights and responsibilities of the participants in that agreement.

Mr. Price, LUB member, who offered that he has extensive experience in putting out fires, interjected that the reflection used by the Fire Chief as the ladder truck, is the least desirable truck. There is no water on it. He pointed out the pumper truck is more maneuverable to get up to the building.

Roger Thomas responded though those comments were appreciated, the Board members are not here to give expert testimony but to rather evaluate evidence. Whereas he noted Mr. Price's experience may influence the way he votes, the Board needs to rely upon information from the Fire Chief.

He noted if the Fire Chief appears before the Board, Mr. Price's comments and questions would be relevant.

He said it is the Applicant's responsibility to present expert testimony, which he has done. He noted there seems to be the question of adequate access.

He declared the Board has the right to subpoena or request the presence of the Fire Chief, if the LUB needs further clarification.

Chairwoman Waldron definitely suggests the LUB should have a letter from all emergency personnel.

Ted Rodman continued reviewing his 2/12/15 report.

#3. Common driveway is not specifically permitted. Roger Thomas declared that would be a requirement with which the LUB must deal.

#5. Attorney Hilgendorff will provide additional information, showing more detail, for the next meeting.

#7. Joint Maintenance Agreement from 1/28/93 between Donald Zabroski and Dean Adler, was marked as Exhibit A-11. Ted Rodman suggested that it be amended to include all parties now. Attorney Hilgendorff agreed whatever the LUB requires as conditions towards a permit, should be put into that Maintenance Agreement.

#8. Wetlands Permit of 11/16/09 has expired. Mr. Glasson, PE for the Applicant, explained that he spoke with the DEP. The metal pipe has been replaced with concrete pipe in August. They await decent shale to top off that wetlands area. He noted that the DEP said they may extend it but want to take a look at it. He confirmed they have applicable permits. Ted Rodman pointed out the driveway permit showing construction did not show shale or anything.

Chairwoman Waldron asked for a copy of the Extension when it is given.

Roger Thomas declared that any favorable action taken would be subject to the DEP Extension.

#10. They will provide more current numbers for Storm water Regulations.

This portion of the Hearing was open to the Public.

Dean Adler, 4 Corners Road, Blairstown, was sworn in. He noted he is concerned about the particular pole requiring rock drilling, which is very expensive. He does not want to incur any expense by removing the tree. It would have to be covered by John Clark.

He stated during testimony at the last meeting, John Clark commented that Mr. Adler would give him a right-of-way back there. He said that is not an accurate representation of any conversation they had. He told him "if you can get to my property, I will allow you to cross it". The only condition was that Mr. Clark would have to incur all the costs.

He said he never maintained that he had the ability to do anything on someone else's property.

He pointed out that when he got approval, Ted Rodman required that he get a Title policy on the access. He questioned if that will be required on this piece. He brings it up to eliminate any problems in the future. Ted Rodman noted that could be a condition. Attorney Hilgendorff said that is not a problem. He said all this would be contingent upon a permit. The applicant would incur the cost.

Melissa DeKorte, Four Corners Rd., Blairstown, was sworn in. She does not believe that the applicant has legal access to her property. Anything she found ends at Mr. Adler's property. Her Seller's Disclosure Statement states Mr. Adler has ROW on the road to his property. She can't find anything that goes past his property or gives anyone else access, besides Blairstown and JCP&L. She said she will have to take this to court. Roger Thomas agreed. He informed her if Title is disputed, the correct way to deal with that, is to go to Court. He said this Board has no jurisdiction to determine who is correct.

Wayne DeKorte, Four Corners Rd., Blairstown was sworn in. His question is on the Permit to put pipes in on the wetlands. He asked, was Mr. Clark allowed to cross the DeKorte property with stone? Ted Rodman responded the Permit was just for doing the driveway on his side.

Mr. DeKorte questioned, how was Mr. Clark allowed to get supplies to his property without crossing Mr. DeKorte's property? Ted Rodman responded that is a legal issue.

For the record, Mr. DeKorte stated, when Mr. Clark had professionals there, that wetland was not supposed to be widened. He stated it is widened now. He revealed there's two tandem loads laying on it. Ted Rodman explained that Mr. Clark was permitted 12 feet, with 2 foot shoulders. He offered to show a copy of the Permit to Mr. DeKorte. Ted Rodman pointed out this must be done again or renewed. He thinks the shale was put there just before the Permit expired.

Mrs. DeKorte requested a copy of whatever they have showing their access. Attorney Hilgendorff responded he would forward that information immediately to their attorney.

Roger Thomas summarized by indicating there are items on Ted Rodman's report of 2/12/15 that need additional information from Mr. Glasson, PE. Also, clarification must be sought from the Fire Chief.

He suggested, for the record, that Attorney Hilgendorff send a letter to the other emergency services by Certified Mail, with a copy to the LUB Secretary. He said that way it is clear that action has been taken. If there is no response, then the Board has subpoena power.

To move this along, Chairwoman Waldron suggested a letter/e-mail be sent on behalf of the LUB to the emergency services requesting their prompt response to Attorney Hilgendorff's afore-mentioned Certified Mail.

Roger Thomas suggested that matter be carried without further notice to the 3/16/15 LUB meeting.

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

Mayor Shoemaker and Paul Avery, Committeeman recused themselves.

Glen Williams, from Kaplan, Williams & Graffeo, Morristown, NJ, attorney for the Applicant identified the Applicant's team:

Greg VanderRydt, Pres. & Consultant of RYDT consulting, who is Project Mgr.,  
Cynthia Falls, AIA, of GK&A architects, Rutherford, NJ, who is the Architect.  
Lino Santos, Commercial Real Estate Broker, of National Realty, Parsippany, NJ, who is the Applicant.

For the record, Chairwoman Waldron noted she and Ted Rodman met with the Applicant in an effort to help them come up to speed so things could be moved along.

Greg VanderRydt was sworn in. He explained this is a 3 condo unit where Cosmic Charlie's was previously located. He described their plan.

The following items were addressed:

Shared Parking

Traffic flow through drive-thru

Location and description of dumpster

Lighting

Storm water flow

Seating

Signage

Landscaping

Ted Rodman reviewed the number of variances being requested. He noted variances are needed for the square footage for the building without the sign, setback for the new pylon sign, and a D variance for lack of landscaping, due to existing impervious coverage.

Mr. VanderRydt said he anticipated a variance review with their Engineer but he had an unexpected medical issue which precluded that.

For the next meeting, he said the issue of the parking should be held in abeyance, number of parking spaces required by Ordinance vs the number of spaces they are providing.

Ted Rodman continued to review his report of 2/13/15.

He stated his concern was with how blanket easement will be done, explaining trailers must get to the back. Roger Thomas noted the question that a couple members of the Board have raised is, if there is access with this series of common easements. How do those rear properties get accessed if this Application gets approved, given the type of circulation being proposed. The response was, the same way as they do now, travelling between their building and NAPA.

Roger Thomas noted there will be a real issue if the Applicant can't control tractor trailers for the neighboring businesses, going against the traffic flow they are proposing. Mr. VanderRydt responded they will look at these easements from a planning perspective, and its impact on their ability to control directional flow.

Chairwoman Waldron declared that Tractor Supply's comment in regards to this testimony is, they will not permit it. She said something must be obtained in writing.

Ted Rodman pointed out that the increased amount of traffic the Applicant will generate, will severely affect what is working now.

As indicated in his report, Ted Rodman noted the access lane to the rear of the building is directly over the septic system. He said the access lane to drive-thru is over the well. He said a new septic system will be installed, and he assumes, relocated. He defers to Warren County Health Dept. for approval for this condition.

Lino Santos, of Kathleen Ct., Sparta, NJ was sworn in.

He said they are looking for business hours of 5am – 10pm. He noted he will only get 1 delivery, off- hours per week, for which he will regulate the time, affording him flexibility. He demonstrated on the Site Plan where delivery items would be unloaded, noting the process takes 20 to 30 minutes.

He said there will be baking but no frying. Donuts are shipped in, between 2 am and 3 am, via box truck.

70% of the business occurs via drive-thru.

Seating will be between 10-14 people. There will be no outside seating.

Mr. Santos explained they will have 12 to 14 employees working different shifts. 7 or 8 work peak hour shifts. Probably only 2 drive. Most employees are part-time, driven by parents.

Vice Chairman Sikkes asked how many parking spaces are allocated for employees. Mr. Santos will try to address this.

The Standard is every 30 seconds a car moves. He said there can be 7 to 8 cars at a busy time.

Cynthia Falls, of GK&A, Rutherford, NJ was sworn in. She is the architect for the Applicant.

She described the design on a color drawing, which is part of the Plan. Sheet R-1 dated 2/12/15, which was marked Exhibit A-1. She said they are building a bump out for easier operation of the drive-thru.

They are putting in a modular-refrigeration system at the rear of the building over the existing impervious coverage. This will sit on a concrete pad, accessible from an opening in the building.

She noted there will be 14 seats though the drawing reveals 10 seats. That is because it was initially submitted that way. The notched out area provides the additional seating, Mr. Santos added.

Mr. Santos changed the originally-proposed 22” cement fiberboard to 12”, to lend itself more to the rural character of the area. He described the exterior renovations. He will be meeting with the other condo owners regarding the improvements & signage. He will incur 60% of the expense. They, in turn, would absorb 20% and 20%.

He noted the others will only have to pay for the cost of putting their logo on the sign on the faces. They will have to get a sign permit from the Zoning Officer.

Ms. Falls indicated the parapet phase will increase the height of the building. There will be a canopy over the Front. She described their illuminated sign which is 6' x 3'. This is the smallest of Dunkin Donuts.

This portion of the Hearing was open to the public.

Diane Dashkiewicz, of Gaisler Rd., Blairstown, owner of Blairstown Pool & Spa condo, was sworn in.

She explained she gets chemicals delivered from 10am to 6pm, two or three times a week, by tractor trailers. Her employees park in the back. She asked where they will park now. She can't fathom how this can work safely with a drive-thru. She pointed out at times, 3 or 4 pallets of chemicals will be sitting there for 4 or 5 hrs. before her employees can load them in. Her concern is about the drive-thru being so close. She's had accidents from people backing up from NAPA.

Mr. Santos demonstrated how he would be willing to stripe the area. He said, now, you can't see the stripes.

He needs to show he has capacity for 12 vehicles, according to the Ordinance.

Chairwoman Waldron said relief from the Ordinance could only be granted through expert testimony, which must be provided.

This portion of the Hearing was opened to the public.

Paul Fedash, 54 Polk St., Newark, NJ revealed that he is the owner of the condo occupied by Main St. Bazaar. He said they do a lot of business out the back door, where loading and unloading occurs. His concern is that a drive-thru would preclude this. He questioned, after allowing for 2 handicap spaces, 3- employee parking spaces each, for his, and the pool store, how many parking spaces would be left for the public.

Josh Reilly, Rt. 94. Blairstown, NJ., owns the NAPA store. His concern is the Entrance and Exit. He has 3 trucks which he parks on the side of the building. He gets 10 tractor-trailer deliveries each month. He explained their routine. He noted the Dry Cleaner adds to the traffic. He explained there is quite a bit of traffic which exists there already.

Mr. VanderRydt said they would be willing to help de-mark parking spaces at a 60 degree angle. He confirmed that there would be sufficient space between the angled parking against the building and NAPA. There is almost 40 feet between the buildings.

Paul Fedash revealed that he has 2 large propane tanks next to the drive-thru. Mr. Santos declared that he was told by the attendant that an inspection, which was done, revealed this is a fire violation. Roger Thomas explained, this is out of the jurisdiction of this Board.

Wyck Mott, Lambert Rd., Blairstown, NJ was sworn in. He asked if the parking discussed, was strictly between the condos. The answer was affirmative.

Roger Thomas announced that given the fact that it is after 10:30pm, he advises this matter be carried without further notice until 3/16/15.

**CORRESPONDENCE:**

2/4/15 Ltr from J. Fox, Esq. to P. Pizzaia, Twn Clk. re: **LB#02-14 NWRHS–Rezone** request

Chairwoman Waldron noted the LUB hasn't received any explanatory letters from the Township Committee regarding Attorney Fox's 2/4/15 letter to Township Committee.

Mayor Shoemaker revealed that the Township Committee said they understand the reason the Draft Resolution was denied, was that there was a loss of control by the LUB. They simply wish to know what is meant by "loss of control".

Roger Thomas noted he had a conversation with Attorney Benbrook, who represents Blairstown Township. What Roger Thomas understands, is that Township Committee would like to get clearer reasons, aside from "loss of control", that motivated the LUB in its determination of 1/19/15. He said Attorney Benbrook said there was no action taken at the Township Committee meeting on 2/11/15, other than a request for clarification of the Resolution.

Mayor Shoemaker pointed out, there were 2 other things.

#1. He said, Kevin Benbrook, Esq., pointed out the Ordinance has some references missing that need to be added.

#2. He pointed out Township Committee asked what about the Elementary School? Should the Elementary School be mentioned in the modified Ordinance? Do they even want to be part of this?

He explained, Mr. Fox will contact the Elementary School's Attorney to determine what their interest might be.

Chairwoman Waldron stated, when the Applicant came before the Board, and asked the question of how the Board feels about it, she noted, no other response could be given except the LUB would be willing to entertain it. She pointed out she doesn't vote for the Board. They make their own decisions.

She said one of the very first issues was spot zoning. She said there are 3 schools involved, one private, and two public schools. When Chairwoman Waldron had spoken with Darlene Green,

PP, about this, Darlene Green had no clue that there was another public school in Blirstown, otherwise she would not have made that recommendation. The recommendation that she would have made would have been an R-5 zone with a Conditional Use.

Ted Rodman commented there was some discussion about Conditional Use vs. Permitted Use.

Mayor Shoemaker responded if the LUB thinks the Conditional Use is another approach, then it should be enumerated, in that order.

Chairwoman Waldron said NWRHS was asked to respond to the following:

- a.) Give another example of other schools that were classified as school zones.
- b.) Were other schools indicated as such, after the fact?
- c.) Did the design element incorporate the school zone originally?
- d.) Did we incorporate all the schools because they are co-located near one another?

Re: **Financial**

She noted NWRHS was asked to give an example of the financial benefit or savings, overriding the fact that the LUB is responsible for the Master Plan change which must be addressed in 2016. According to Darlene Green, an Amendment must be filed and there are costs involved in that.

Chairwoman Waldron explained that if the Master Plan has not changed, only a cost-saving review must be done.

She summarized by stating, the financial aspect of this - will be paid by Blirstown taxpayers.

She thinks a letter should be formulated and sent to Township Committee.

Roger Thomas commented this is not Spot Zoning.

He commented no one requested the Elementary School be involved, though it could be, as part of a zone change. He pointed out this Draft Ordinance is not designed for that purpose.

He said if the Elementary School wishes to be involved, they may have a totally different set of circumstances, which might require 2 zones.

He revealed it may well be that there could be a Conditional Use. His opinion is that there would be different standards applying to the Middle & High Schools.

Roger Thomas declared the right way to do this, is to send a letter. He noted the Board's is the action that matters. He transcribes that into a Resolution, which the Board then memorializes. If

the Resolution is questioned for clarification by Township Committee, and Board feels he hasn't captured the reasons for denial, then he will amend and resubmit the Resolution.

He said this Board needs to give him clearer direction as to the reasons why, in addition to what he included. He needs to know why the request for the zoning was denied.

Mayor Shoemaker agreed that is what the Township Committee is seeking.

Vice Chairman Sikkes reiterated, he feels the Board is definitely losing control with what takes place for the School. He pointed out in the past, NWRHS had a defeated Referendum for expansion. He remarked that they then put money in their Budget each year to do that, which they said was legal, to circumvent and go around the Public.

Roger Thomas declared he wants the record to be clear that the LUB does not have control over that issue. It is not a zoning issue.

Barbara Green asked if the property that Blirstown Elementary School owns, by the Library, will be affected also.

Chairwoman Waldron pointed out the following financial issue. She explained that NWRHS never pays LUB application fees to the Township. On the other hand, Blair Academy, a private school, has paid \$2,975.00 since 2000, in application fees. She noted, she reveals this because if it is solicited by NWRHS to LUB, the Township loses those application fees. She said, she is stating all considerations, not just control but financial issues.

Roger Thomas returned to the primary issue, stating this Board can decide, on its own motion, to start thinking about a zone for the Elementary School. He explained this is a collateral issue which may or may not come up.

He reiterated the LUB has been asked by counsel, to clarify the Draft Resolution and to give more substantial basis for the denial. He said the Board can say "NO", as an option. He indicated they have the right to say they understand, and will spend some time, in view of the criticism, giving him, as LUB Attorney, instructions regarding modification of the Resolution before its memorialization.

Mayor Shoemaker said he doesn't think the Township Committee is looking for an answer now.

Chairwoman Waldron said she was told, by the school, there was a timing issue. She said they wanted approval by April.

Roger Thomas replied it is irrelevant what NWRHS wants. He said the issue has been brought by Township Committee.

He stated he hopes this discussion will be conveyed back to Township Committee by the Mayor so that Township Committee understands that this Board, if desired, will re-examine the Draft Resolution, and come up with suggestions to modify it. He said the LUB has already voted. This is not to add new reasons but to give new direction to him to make it clear.

He advised that the Board should decide whether or not they will respond. If so, convey to the Mayor and Paul Avery, Committeeman, that the Board will respond at the next meeting.

Chairwoman Waldron noted she will not attend the 3/16/15 LUB meeting but will prepare a statement.

Ted Rodman interjected there is nothing to respond to. No letter has been received.

Whereas there is no formal letter, Roger Thomas said, he has spoken with Attorney Benbrook.

Chairwoman Waldron said she would like something in writing because every time this is discussed, the language is different, i.e. School Board seeking an answer by April. Roger Thomas said it is, what the Township Committee wants. He reiterated, if the LUB is willing to respond, it doesn't matter what the School Board wants.

Ted Rodman, who was at the Township Committee meeting on 2/11/15, stated "he believes there was almost a motion, to look at the other school, and thinks that was a direction that they were sending it back".

Roger Thomas reiterated that is a collateral issue which is not relevant to the issue of the Resolution. He said this Land Use Board and Ted Rodman never looked at the other school. Roger Thomas then advised the Board to focus on the Resolution for the High School and Middle School.

Roger Thomas noted, if there will be something further, it can be discussed later, after the issue at hand is resolved. It is a matter of getting a better draft on the reasons which were voted on in January, not to give new reasons.

Chairwoman Waldron has no problem with that. She said she does not poll the Board. She reviewed, initially the first thing she suggested, was talking with the other schools. She encouraged that path, as she foresaw a possibility of spot zoning. She noted when the Applicant returned, their choice was not to go that route, at the time. She pointed out she votes last, so as not to influence or color anyone's decision. She reiterated she is more than willing to have a letter prepared.

**OTHER BUSINESS:**

**2014 Land Use Board Annual Report**

Roger Thomas noted this report will be discussed next month.

**Darst #ZB04-10 – Compliance**

**COAH**

Mayor Shoemaker reviewed the idea of having Darlene Green, PP, bring the LUB up to date. This was mentioned last month. She stressed, with all the new information coming out, that it is important the Board members be brought up to speed.

Chairwoman Waldron also noted a Joint Meeting with the Township Committee was discussed.

Mayor Shoemaker declared that the Township received approval for the MOU (Memo of Understanding) for a group home. He clarified the State Mortgage Housing Authority approved the funding. There is no specific location but he said there is communication with ARC. Roger Thomas said he would like to offer information regarding that, which would be very beneficial.

**NEW BUSINESS:**

None

**PUBLIC PORTION:**

No members were present.

**VOUCHERS:** Professional services rendered.

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

**ADJOURNMENT:**

Chairwoman Waldron asked the Board for a motion to adjourn.

**Action:** On a motion duly made by Mr. Keller, seconded by Mr. Mohr, and unanimously carried, the meeting was adjourned at 11:00pm.

Respectfully submitted,

Marion C. Spriggs, Board Secretary