

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

**MINUTES**

The Blirstown Township Land Use Board met in a regular session on Monday, March 16, 2015, at 7:30 pm at the Blirstown Municipal Building, 106 Route 94, Blirstown, New Jersey.

The following members were present: Barbara Green, David Keller, Nick Mohr, Paul Avery, Herman Shoemaker, Jim Sikkes, Harold Price, Dominic Daleo, Mark Ohannesian and Richard Mach. Debra Waldron, Charles Anderson and Mike Repasky were 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 Vice Chairman Sikkes, who stated:

“Adequate notice of this meeting of the Blirstown 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:**

Vice Chairman Sikkes declared that submission of information supporting applications must arrive at Town Hall **10 calendar days prior to meetings**. He 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 February 16, 2015 Regular Meeting of the Land Use Board were approved, as corrected.

**Action:** A motion was duly made by Mr. Price, seconded by Mrs. Green to approve the Minutes of the February 16, 2015 Regular Meeting of the Land Use Board, as corrected. Roll call vote: Green, Keller, Mohr, Avery, Shoemaker, Sikkes, Price, Daleo, Ohannesian and Mach– yes. There were no abstentions.

**RESOLUTIONS:**

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

Roger Thomas announced that this matter is being carried, at the request of the Applicant, until the 4/20/15 LUB meeting. He noted the action has taken place but the adoption of the Resolution is awaited.

**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

**Action:** A motion was duly made by Mayor Shoemaker, seconded by Mr. Price, to approve the Resolution deeming **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. Roll call vote: Keller, Mohr, Avery, Shoemaker, Price, Daleo, Ohannesian and Mach – yes. Sikkes & Green, – abstained.

**COMPLETENESS:**

**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.

Ted Rodman recommends this application now be deemed Complete.

**Action:** A motion was duly made by Mr. Keller, seconded by Mr. Daleo, to deem **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., Complete. Roll call vote: Keller, Mohr, Avery, Shoemaker, Price, Daleo, Ohannesian and Mach – yes. Sikkes & Green – abstained.

**EXECUTIVE SESSION:**

Roger Thomas suggested the following motion to enter into Executive Session, due to the time constraints imposed on all municipalities by the NJ Supreme Court re: COAH.

**Action:** A motion was duly made by Mr. Mach, seconded by Mayor Shoemaker and unanimously carried, to enter into Executive Session at 7:45PM, to discuss potential litigation, based on the NJ Supreme Court’s recent decision regarding COAH.

**Action:** A motion was duly made by Mr. Mach, seconded by Mr. Price, and unanimously carried, to adjourn Executive Session, at 8:05PM

**PUBLIC HEARING:**

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

Vice Chairman Sikkes, stated that since Attorney Schepis, has sent the Board 2 letters regarding this application, he would like to have him speak first.

Steven Schepis, of Pine Brook, NJ is attorney for Wayne DeKorte, a contiguous property owner, who is contesting this application.

Mr. Schepis contested the jurisdictional issue of proper Notice. He stated the list of adjacent property owners which was used, was old.

Secondly, he indicated the Notice lists the Applicant is seeking permission to receive a variance allowing access to lots in question that have no road frontage. He pointed out the Notice fails to apprise the Public as to the nature of relief requested. He said there is nothing in the Notice that identifies that he is seeking a Building Permit, or intends to construct anything.

Also, he noted the Notice fails to identify the property that is the subject of the application. Whereas the Applicant identifies his own Block & Lot, those over which he wishes to traverse to gain access to a public road, are not identified.

Roger Thomas respectfully disagrees.

He pointed out this Application has a long history. He explained that at the time it was initially Noticed, the list of adjacent landowners was “fresh”. For various reasons when it was necessary to re-Notice, the Applicant was never requested to obtain a new list. In Mr. Thomas’ opinion the list which was used, is fine.

Roger Thomas pointed out that Robert Berry, who is a qualified land surveyor, revealed resultant from his research that there is colorable title.

He stated this Board is not in a position jurisdictionally or otherwise to make a determination with regard to the ownership of property. He said that is a real estate property right over which this Board has no jurisdiction. He noted the Board found for purposes of jurisdiction, there is colorable right to allow the Board to retain jurisdiction over this application. He said that decision was made at the last meeting. Any issue regarding that, he pointed would be in the courts.

Mr. Hilgendorff responded that the Applicant stands by the information provided earlier by Robert Berry, Professional Land Surveyor.

Vice Chairman Sikkes suggested that Mr. Hilgendorff address Ted Rodman’s report dated 3/12/15 starting with additional comment #1. Dealing with adequate access for emergency services.

Roger Thomas interjected that the focus of what this application is all about is whether or not there is emergency services to the proposed lots.

Darren Occhiuzzo, Fire Chief, was sworn in. He stated the following in his testimony which is based on his physical observations:

He originally surveyed the proposed driveway with the 250 gal. mini-pumper which has 4-wheel drive. He surveyed it again today with a 2 wheel-drive, 15,000 lb., utility truck and it was soggy. He commented he dare not drive it today with a 4 x 4 truck. He noted their heaviest tanker is 60,000 lbs. He got to the swampy area on foot and has no idea what the rest of the way looks like since he never reviewed any plans from the Applicant. He saw stone which was dumped by a dump truck.

He was informed the driveway is 3,000 ft. He noted the hose length is only 2,000 ft.

His foremost concern is the length and getting to the proposed houses.

He noted there was a tree to the right that would make it hard to swing for the biggest trucks which are the ladder truck and the tandem-axle tanker. He said if that was cleared, there should be no issue making that particular turn.

He pointed out that based on the winter we experienced this year, one can only plow so far away. He said the width of the driveway, as it stands now, would be tough to maintain.

In reference Affidavit, prepared by Mr. Hilgendorff, dated 7/9/14, states that he had reviewed a Variance Plan. Fire Chief Occhiuzzo revealed he had not seen a Variance Plan or map.

Mr. Schepis asked what the nearest water source would be to the proposed lots.

Fire Chief Occhiuzzo indicated there are 2 that he would use.

1. Bertholf's pond at the end of 4 Corners Rd. @ #54. –  $\frac{3}{4}$  to 1 mi. away. It could not be run with a hose length but with tankers, which would be rough.
2. Creek going under Cobblewood Rd. –  $\frac{1}{2}$  mi. straight uphill, which is tough.

In response to Mr. Schepis' question, Fire Chief Occhiuzzo, stated he has not seen plans, or any other information, to review, to satisfy his concerns, that he could provide safe and efficient fire-fighting capability in the event of fire, in one of the proposed houses to be built.

Joe DiGrazia, Pres. of the Blirstown Ambulance Corps., Blirstown, was sworn in. He has served twice as Chairman and has 14 years of service with the Corps. He stated their policy is never to be the deciding agency of whether the Land Use Board approves or denies an application.

He summarized by stating if a 911 call is submitted, they will get there and have the necessary equipment to extricate, even if they have to walk to a patient.

Mr. DiGrazia also testified that he had never seen any plans.

Mr. Piccola of Nationwide Title Services, of Morristown, stated his search revealed no access was ever given for subject property through the Dekorte property. His research dates back to 1848.

The following Exhibits, submitted by Mr. Piccola were marked:

- Exhibit O-1 Curriculum vitae – G. Piccola
- “ O-2 “Old” Tax Map
- “ O-3 Copy of Judgment (Foley et al)
- “ O-4 Copy of ROW Grant
- “ O-5 Nationwide Title Services report of 3/12/15 to Attorney Schepis

Roger Thomas suggested that matter be carried, without further notice, to the 4/20/15 LUB meeting.

**Action:** A motion was duly made by Mayor Shoemaker, seconded by Mr. Keller, and unanimously carried, for **LB#06-13 Clark**, Block 801, Lots 1 and 2.01 No road frontage, until 4/20/15.

**LB#06-14 Myrtle Donuts, LLC, (Dunkin Donuts)** 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, was previously sworn in and acknowledges he remains under oath.

He said since the 2/16/15 LUB meeting, the Applicant had submitted revised plans incorporating changes.

Mr. George Gloede, President, PE, PP, of G. Gloede & Assocs., Oak Ridge, NJ, was sworn in and described those changes this evening.

Exhibit A-2 (of 3 pages), was marked, which were revised plans dated 3/5/15.

Parking was addressed

Ted Rodman’s report of 3/12/15, additional comments, were reviewed.

Mr. Gloede explained there is nothing clearly defined as to what cross easements and rights are. The applicant will be working with the adjoining property owners to resolve this. Everything else, including maintenance and by-pass lane will be taken care of when this is resolved.

b. by-pass lane, (see above).

c. He stated the westerly property line curb was proposed and parking changed to angled parking because Tractor Supply was not willing to work with the applicant.

d. Mr. Gloede indicated trucks will access Jersey Gypsum as they do now. He admitted he has not witnessed how they do it now. He revealed currently, it is a free for all.

3. Ted Rodman noted that there are a couple of parking spaces that will have to be backed out of to get out of there. Mr. Gloede admitted parking spaces #2 & #3 might be difficult and if they had to, they could eliminate space #2. Space #1 would be for the Pool store.

4. The well is under the pavement and the cesspool is under the pavement in the back of the building. A new septic system is proposed, which will be under the pavement on the left side of the building where the 45 degree-angled parking spaces are. Both the septic system and well will service all 3 units. No well test has been done. The yield has not been determined. The applicant will look into it.

5. The pylon sign is proposed to be moved outside the ROW onto their property, within the island shown at the entrance. It will be only 3 ft. off the property line from the ROW line. Since the front yard setback is 25 ft., they will require a variance.

6. Signs will be provided indicating "For Retail Customers Only". No designation sign is planned for Unit B.

7. They must consult with Fire Dept. to address fire and emergency access.

8. Pylon remains same but is being moved back, requiring a variance for the setback.

Lino Santos, the owner, remains under oath from the 2/16/15 LUB mtg. He revealed that he gave a budget amount of maximum, \$30,000., to each of the other 2 units. \$20,000. to be used for septic system, and \$10,000. for all the improvements on site i.e. pylon sign, building sign, paving etc. Since that is capped, Mr. Santos stated he will absorb any additional costs. He said he will fund it over 20 years, costing the other units each \$250. per month. He discussed this with the pool owner (Unit #C) who would not make a decision until after this Hearing. Mr. Santos had a discussion with Unit #B but he doesn't have a definitive answer.

Continuing with signage, and the consistency with the other 2 units, Mr. Santos stated he would like to say yes to the consistency however he does not know what they require. He divulged his

signage comes from a particular vendor and is specific. He said whatever signage they get approved by the Township, he can accommodate.

Mr. Gloede noted they are proposing the smallest allowable sign for a Dunkin Donuts store. They cannot suggest making it smaller. Mr. Santos revealed the smallest pylon sign available to him is 21.48 sq. ft. He said a normal sign costs \$3,500. He commented that it does not make sense for him to pay \$20,000. for a 16 sq. ft. sign.

Cynthia Falls. GK+A Architects, Rutherford, remains under oath from 2/16/15 LUB mtg. She noted the proposed sign is 6 ft.high x 3 ft. 7 in. wide. Ted Rodman revealed he would have to check regarding the height.

9. No storm water management is proposed on the already paved site. Ted Rodman desires the current runoff to be noted on the plans.

10. They will meet with Ted Rodman to discuss lighting.

11. Operating hours will be 5am to 10pm daily.

12. Architectural plans have been revised to reflect the rural character of Blairstown.

13. NJ DOT approval for Access Permit Waiver Letter, is expected by the end of this week. They also submitted to Warren Cty. Planning Bd. & Soil Conservation as required.

14. They have submitted to Warren Cty. Health Dept. for a new septic.

15. 25 parking spaces are required. Ted Rodman has a problem with counting spaces in drive thru as parking.

Ted Rodman clarified the 25 spaces are for the entire building, not just Dunkin Donuts.

Mr. Williams noted the **following variances** would be needed:

**Parking**, 25 needed – 20 shown (with Space #2 excluded), not including the cars that are in queue in 12 spaces.

Mr. Gloede, PP, believes the parking is adequate for the intended use since the majority of cars that go through the site, will be going through the drive thru.

### **Signage**

a. SIZE: 11 sq. ft. permitted, 21.5 sq. ft. proposed

b. LOCATION: See #5 above re: pylon sign in ROW.

Shrubbery at exit area will be removed for sight distance

**Cooler** in rear of building – requirement is 25 ft. from the building – proposing 18 ft., due to size of cooler which is 7 ft. wide.

**Landscaping** – for screening the drive thru. Since the area is all pavement, there is no place to put any landscaping on the site.

Mr. Gloede, PP, stated that the benefits, with the pylon sign and any other variances, outweigh the detriments. In his opinion, by the granting of the variances, there won't be any impact of the Land Use Ordinances of Blairstown.

Mr. Santos stated there will not be any propane tanks. The heat is currently electric.

This portion of the Hearing was opened to the public.

Cathy Landis, Main Street Bazaar (Unit #B) owner, questioned why she has not been designated any parking spaces, given the store she rents is twice the size of Unit #A & Unit #C. Her contract reveals she has a certain amount of common area where she parks her trailer, from which she works every day.

Mr. Williams confirmed that the next 2 spaces over, would be designated for this. He noted that space #3 would be for the pool store and spaces # 4 & #5 would be for Main St. Bazaar.

Ms. Landis then questioned how she will maneuver her man door, given the location of the Menu Board. Mr. Santos responded he believes it is not in the way and that he will work with the vendor to make it more transparent.

Diane Dashkiewicz, owner of Blairstown Pool & Spa (Unit #C), was sworn in. Her concern is for tractor trailers delivering to her store. She noted they will be unloading in the drive thru lane. Though she stores no chemicals outside, sometimes they remain outside until she has an opportunity to transfer them to inside. She said, at times, it gets really busy and suggested a traffic study be done.

Josh Reilly, Rt. 94. Blairstown, NJ, owner of the NAPA store, was sworn in. He revealed he helps to unload pool chemicals at times because when delivery trucks are there, there is not enough room for his customers, who are parked at a 90 degree angle, to back out. He noted, as a good neighbor, his store has angled parking, as there is not enough space for a true in/out lane. He said now, there is talk of making one lane a drive thru, making the middle lane a thru way and then have his cars angled-parked. With the pile up of snow the previous 2 winters, traffic flow around the property is reduced to one lane.

He has witnessed that Jersey Gypsum tractor trailers come in any way they desire to make it easiest for them. He revealed that the majority of the time, they exit out between his store and the condo.

His concern is that the drive thru is going to back up into the thru lane.

He pointed out the road is designated as entrance & egress. He questioned who has the rights, and what are the rights, as property owners, to keep it that way.

Cathy Landis, owner of Main St. Bazaar, was sworn in. She stated on Saturdays when the pool store, cleaners, NAPA and she are all busy, it becomes a nightmare. She said she will be carrying furniture through what is designated to be the drive thru. She does not think arrows and signs will deter people from doing what they always have done.

She explained her issue is for at least a double parking space. She has a 30 ft. long trailer attached to her pick-up truck. She noted those spaces will not accommodate that.

Mr. Williams interrupted at this point, declaring since the adjoining property owners are concerned about the drive-thru traffic flow, and associated parking, the Applicant is willing to move forward **WITHOUT** doing the **DRIVE-THRU**. They plan to use parking in common with the adjoining property owners. He divulged that no parking variance is being sought.

Roger Thomas noted there is still a parking obligation.

He pointed out the obligation exists since they have a Site Plan which is improving the site, and there is a certain amount of parking required. He responded, if the Applicant is saying they don't know what the parking is, how does this Board determine if a variance is necessary, without on-site parking being designated.

Mr. Williams responded the Applicant can provide testimony that there is adequate space since the pre-existing restaurant had 50 seats. Roger Thomas stated that something different is being proposed here, in that the Applicant is stating this is an improvement. He said, under the Ordinance, if there is still a parking deficiency, maybe it is not an improvement.

Mr. Williams reviewed the Applicant has shown 20 parking spaces can be located on the site but they are limited to make that improvement because of the other issues raised by adjacent property owners. He acknowledged this is a good point, so the Applicant will agree to seek a variance associated with the parking based on Roger's aforesaid comments that its efficiency, based on a previous plan, is deficient by 5 spaces.

Roger Thomas revealed that based on that modification, this portion of the Hearing needs to be opened to the public again for comments.

Diane Dashkiewicz, owner of Blairstown Pool & Spa (Unit #C), who was previously sworn in, stated she needs to think about this. She said in a conversation she had with the Applicant, he indicated he was not going to do this if he couldn't get a drive-thru. She said they need to talk.

Ted Rodman explained the current drawing would not be approved but a revised Site Plan must be submitted, showing that the drive thru has been eliminated.

Wyckliff Mott, Blairstown, NJ was sworn in. He commented it is his understanding that the Applicant has a caveat which would enable him to come in at a later date for a drive-thru. Both Mr. Williams and Roger Thomas agreed there is always that right.

Mr. Mott expressed concern for the ability of customers to park there on a busy day, due to the number of cars present. He feels business will be lost if a potential customer can't find a space, due to the limited number of spaces in the front.

This portion of the Hearing was closed to the public, since there were no further comments.

Mr. Williams asked if there was anything further to show on the Site Plan since the architectural rendering and coolers remain the same. Ted responded, "Obviously, the Parking".

Roger Thomas revealed the applicant is proposing not to stripe it. Vice Chairman Sikkes said striping is for their benefit. Ted Rodman noted it must be striped.

Lino Santos, owner, then agreed to stripe it. He stated the drive thru encompasses an incredible amount of the business. Taking it out of the picture, reduces a big chunk of the profits that he's depending on for development. He declared he feels quite certain that he will find the 25+ parking spaces.

Mr. Santos said he would have to speak to Corporate before addressing if the bump out would stay or go.

Roger Thomas announced that Notice will be carried until 4/20/15. No further Notice will be provided.

**CORRESPONDENCE:**

**OTHER BUSINESS:**

**2014 Land Use Board Annual Report**

Roger Thomas noted this report will be discussed next month.

**Darst #ZB04-10 – Compliance**

**COAH**

(Discussed in Executive Session)

**NEW BUSINESS:**

None

**PUBLIC PORTION:**

There were no comments or questions from the public.

**VOUCHERS:** Professional services rendered.

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

**ADJOURNMENT:**

Vice Chairman Sikkes asked the Board for a motion to adjourn.

**Action:** On a motion duly made by Mr. Price, seconded by Mr. Mohr, and unanimously carried, the meeting was adjourned at 11:01pm.

Respectfully submitted,

Marion C. Spriggs, Board Secretary