

**BLAIRSTOWN TOWNSHIP
LAND USE BOARD
August 19, 2019**

MINUTES

The Blairstown Township Land Use Board met in a regular session on Monday, August 19, 2019, at 7:30 pm at the Blairstown Municipal Building, 106 Route 94, Blairstown, New Jersey. The following members were present: Barbara Green, David Keller, Richard Mach, Nicholas Mohr, Rosalie Murray, Michael Repasky, Steven Sikkes, Debra Waldron, Wickliffe Mott, Norman Talley, Adam Baker, and Chairman James Sikkes. Also present were: Board Engineer, Ted Rodman, Board Attorney, Roger Thomas, and Board Secretary, Linda Grohs.

SALUTE TO THE FLAG: was recited.

ROLL CALL: was taken.

THE SUNSHINE STATEMENT: was read.

LAND USE BOARD DEADLINE DATES:

Chairman Sikkes stated that submission of information supporting applications must arrive at Town Hall **10 calendar days** prior to meetings.

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

Minutes of the July 15, 2019 Regular Meeting of the Land Use Board were approved.

Action: A motion was duly made by Mrs. Green, seconded by Mrs. Waldron, to approve the Minutes of the July 15, 2019 Regular Meeting of the Land Use Board.

In Favor – All Present. Opposed: None. Abstained: Keller, S. Sikkes, and Talley.

RESOLUTIONS:

Ordinance 2019-18 (reintroduced with LUB changes) to amend Chapter 19 “Land Development”, Article 19-500 “General Provisions” to add new sections entitled “Soil Fill Placement”, “Operating Requirements”, and “Fees; Bonds; Penalties and Miscellaneous Provisions” and to amend Section 19-901 “Fees” of the Code of the Township of Blairstown.

Mr. Thomas stated that this resolution was approved and is ready to be memorialized.

Action: A motion was duly made by Mrs. Waldron, seconded by Mrs. Green, to memorialize the Resolution for this Ordinance.

Roll call vote: Green, Mach, Mohr, Murray, Repasky, Waldron, Mott, Baker, and J. Sikkes – yes. Keller, S. Sikkes and Talley – abstained.

COMPLETENESS:

Mr. Keiling kindly asked the Board if Mr. Selvaggi, representing Blair Academy, would be able to present first as Mr. Keiling represented the balance of the Applicants on the agenda, and the Board agreed

LB#08-19 Blair Academy (Steckel House), Block 906, Lot 13, 2 Park Street, Preliminary / Final Major Site Plan and D Use Variance

Michael Selvaggi of Lavery, Selvaggi, Abromitis, and Cohen, introduced himself as representing Blair Academy. They are here tonight to seek completeness for a conversion use of the Steckel House on the

campus. Mr. Ted Rodman issued his report on August 14, and he lists (16) sixteen items for completeness that they have asked to be waived. If the waivers are not granted and they must provide the requested data, they will have to revise the plans which might delay the project. If the waivers are granted and they are deemed complete, they can be scheduled for Public Hearing at the September 16, 2019 meeting.

Mr. Thomas stated that the basis for the waivers is that Blair Academy is approximately 181 acres and this application is for a very small portion of that. Therefore, the waivers reflect the fact that the area of development in this application is limited and they are seeking the waiver as a basis of that. Mr. Selvaggi agreed and if the Board agrees to waive the sixteen (16) items, the Board can deem the application complete.

Mr. Thomas asked Mr. Rodman if all items were based on the reasons explained by Mr. Thomas, and Mr. Rodman answered yes. Mr. Thomas asked if Mr. Rodman had any objections to any of those waivers being granted, and he said no.

Chairman Sikkes asked if any Board members had any objection to the waivers being granted, and they did not.

Mr. Thomas asked for a motion to deem the application complete, granting the waivers requested.

Action: A motion was duly made by Mr. Keller, seconded by Mr. Mach, to deem the Application complete with waivers.

Roll call vote: Green, Keller, Mach, Mohr, Murray, Repasky, and J. Sikkes – yes. S. Sikkes and Waldron – recused.

LB#07-19 David Berberian, Block 2101, Lot 4.02, 141 Hope Road, C Bulk Variance

Mr. Keiling introduced himself on behalf of his client, Mr. David Berberian. This is an application for an existing building for which the appropriate permits have been received from the Zoning Department and the Construction Office. Mr. Keiling stated that his client would like to use some of the building now not just for farm use but for personal storage purposes and other things. They are permitted to use approximately 950 square feet of the building for personal use and they are asking for a C Bulk Variance to use another 125 square feet. Mr. Keiling has Mr. Rodman's report and they are on for completeness.

Mr. Thomas referenced Mr. Rodman's report of August 14, 2019 which states that the plat is not sealed by the surveyor who originally signed the plan. For completeness, Mr. Thomas asked if Mr. Rodman felt the information submitted was adequate for review by the Board and the public, and Mr. Rodman agreed it was and that the waiver was a reasonable request. Mr. Keiling will have the plat signed for the Public Hearing, or, Mr. Thomas stated that it could be a condition. Mr. Repasky brought up the fact that when the plat is sealed, it should also have the survey title block corrected for the lot number. Mr. Keiling stated that it is actually Lot 4.02 and will be corrected.

Chairman Sikkes asked for a motion for completeness.

Action: A motion was duly made by Mr. Keller, seconded by Mr. Repasky, to deem the Application complete with waiver.

Roll call vote: Green, Keller, Mach, Mohr, Murray, Repasky, and J. Sikkes – yes. S. Sikkes and Waldron – recused.

LB#06-19 The Last Frontier (Brian Piccolo), Block 2003, Lot 27, 44 Hope Road, Minor Site Plan and D Use Variance

Richard Keiling introduced himself on behalf of his client, The Last Frontier. They presented before the Board in June for an interpretation to reinstate a D Use Variance which was declined. The Board suggested that they apply for a Minor Site Plan and D Use Variance, which has been submitted. Mr. Keiling has Mr. Rodman's report of August 14, 2019, and he is asking for a waiver on one item for completeness which is the key map scale. If granted that waiver, they would like to present at the September meeting.

Mr. Thomas asked Mr. Rodman if the current plans would be adequate for the Board and the public to understand. Mr. Rodman agreed and stated that the waiver was reasonable.

Chairman Sikkes asked if there were any questions from the Board and there were none. He then asked for a motion for completeness.

Action: A motion was duly made by Mr. Mach, seconded by J. Sikkes, to deem the Application complete with waiver.

Roll call vote: Green, Keller, Mach, Mohr, Murray, Repasky, and J. Sikkes – yes. S. Sikkes and Waldron – recused.

PUBLIC HEARING:

LB#05-19, Nicholas Fluri Sr. & Jr., Block 1601, Lot 3.01, 140 Cedar Lake Road, Minor Subdivision (conforming minor one-lot subdivision without variances)

Richard Keiling is appearing on behalf of Mr. Fluri Jr. and Sr. for a minor subdivision. Mr. Thomas confirmed that this application was previously deemed complete at the July meeting.

Mr. Keiling presented the Certificate of Taxes Paid for the third quarter which was marked as Exhibit A-1.

Mr. Keiling's client owns a 20 acre piece of property on Cedar Lake Road which contains a very large five-six bedroom house, and also on that lot there is a three bedroom cottage that had been converted (former Ludwig Kapp property). Traveling south on Cedar Lake Road, the property is located (just before the train overpass) on the right hand side of the road where a set of driveway gates exists. Mr. Fluri purchased the property at a foreclosure last year and has contacted Mr. David Diehl, Zoning Officer, to discuss plans to renovate. This is a 20 acre piece of property with two dwellings on it which does not meet zoning code. Their plan is to split the 20 acres into three lots: 8 acres for the main house, 6 acres for the cottage, and 6 acres for the remaining lot.

Mr. Thomas noted for the record that in addition to the subdivision, there was a question of a variance versus a waiver request for the common driveway. Under the driveway ordinance, it discusses the fact that there should not be driveways which cross by way of easement and that driveways across rights of way, easements, or the like to a lot or parcel of land are prohibited. However, it says under Section 12 that appeals to that section can be made to the Board. Mr. Thomas feels this is a waiver and not a variance.

Mr. Thomas swore in Mr. Nicholas Fluri of 140 Cedar Lake Road, Blairstown, and Mr. David B. Simmons, Jr., whose office is at 17 Plains Road, Augusta, NJ. Mr. Thomas confirmed that Mr. Simmons is testifying as a Civil Engineer in NJ and has been qualified in those areas before Boards in NJ, both in Sussex and Warren Counties.

Mr. Simmons presented the subdivision map with subject lots 3.06, 3.01, and 3.07 highlighted in red. Mr. Thomas asked for the map to be marked as Exhibit A-2, Proposed Subdivision dated June 2019 and signed June 27, 2019.

Mr. Simmons described the main house on Lot 3.01 with 8.03 acres with frontage on Sand Hill Road on the northerly side, on the easterly side bordered by Lot 3.05, and on the southerly side by proposed Lot 3.07, and on the westerly side by proposed Lot 3.06. Proposed Lot 3.06 and Lot 3.01 both have frontage on Sand Hill Road. The difference in elevation based on the topo map from the elevation on Sand Hill Road up to where the slope would plateau is approximately 100 feet. In that first 100 feet there is a slope of about 60%, very steep. Chairman Sikkes expressed that it would be very difficult to put a driveway in there, and Mr. Simmons agreed, stating that it would disrupt a very large area.

Mr. Simmons then described proposed Lot 3.07 which has frontage along Cedar Lake Road. There is an existing driveway entrance off Cedar Lake Road with pillars. This driveway runs parallel to Cedar Lake Road, then curves along the southerly portion of the property, and then goes to both the three-bedroom cottage and to the existing Lot 3.01.

Mr. Simmons described Lot 3.05 as being located to the east of Lot 3.01 which shares a common driveway with the current parent Lot 3.01 (prior to proposed subdivision). There is an existing easement that shares the driveway off County Route 616/Cedar Lake Road. Mr. Simmons confirmed that there is a driveway maintenance agreement between the parent Lot 3.01 and Lot 3.05 which was from 2003 that was presented before the Planning Board. There is an existing access easement that terminates within Lot 3.07 which would be extended to the common property line with Lot 3.06. Mr. Simmons also confirmed that all four lots (proposed Lot 3.06, Lot 3.01, proposed Lot 3.07, and Lot 3.05) would share the driveway and have a common maintenance agreement.

Chairman Sikkes asked Mr. Simmons the condition of the existing driveway and Mr. Simmons replied that he traveled the driveway tonight and the pavement gets a bit deteriorated. In order to reach the proposed Lot 3.07, there would have to be a profile driveway completed to meet the Township's ordinances. Mrs. Waldron asked for the elevation of the driveway, and Mr. Simmons calculated a grade of about 26% that would require some cuts to meet the maximum allowed of 15%. Chairman Sikkes asked how that would affect the water runoff, and Mr. Simmons answered that they would need to divert and discharge to proposed Lot 3.07 where the cottage exists.

Mr. Simmons stated that there is an existing septic system on proposed Lot 3.07 that serves both the main house on Lot 3.01 and also the cottage on proposed Lot 3.07. Lyon Engineering did conduct additional test holes on Lot 3.01 and was able to reach greater than 10 feet without mottling or groundwater seepage. An additional four test holes were completed on proposed Lot 3.06 which did have fractured shale at about 54 inches. If a disposal bed were constructed in this area, it would have to be a raised bed as they could not reach 10 feet. This may not be where any future dwelling would be located. Chairman Sikkes asked what the topography was on proposed Lot 3.06, and Mr. Simmons replied that there is an 80 foot change in elevation across the entire lot.

Mr. Simmons advised that Lot 3.01 with the six-bedroom home on it would have a brand new septic system to service only that house. The current septic system on proposed Lot 3.07 (cottage) will handle only the cottage (and not 3.01).

Mr. Nick Fluri explained that the water system now is one well that is 500+ feet deep which was rebores last year and passed and is shared to the existing homes. Mr. Fluri detailed that this is his legacy; his plan is to bring his parents to the cottage on proposed Lot 3.07. He has four children and wants to give each of them a piece of the property in the future which is why he applied for this subdivision. There is no easement agreement for the well, but he would be happy to provide one if necessary. When asked by Mr. Keiling about things changing on the family compound and if he would agree to a deed restriction on any future transfer of ownership that proposed Lot 3.07 would be required to drill their own well, Mr. Fluri absolutely agreed. Mrs. Murray asked if the slope where the main house is located on Lot 3.01 is similar

to the slope on the proposed Lot 3.06, and Mr. Simmons answered that all contours were similar and slope downhill.

Mr. Keiling entered as Exhibit A-3 a letter from C. Scott Lyon of Lyon Engineering dated May 29, 2019, that evaluated the existing septic system. A hydraulic load test on the existing system showed that it was functioning properly and was more than sufficient to handle the load from the three-bedroom cottage on proposed Lot 3.07. A brand new septic system will be installed for the main house on Lot 3.01 which will allow the three-bedroom cottage sole use of the existing septic system.

The common driveway will be considered as a waiver request. It was established that Sand Hill Road is not a good fit for a driveway due to the steep slope, but it does provide a good buffer for the top of the hill. Mr. Simmons stated that the existing driveway is safe. Chairman Sikkes stated that the sight distance to the railroad overpass is poor. Mr. Mohr stated that drivers must slow down to go through the railroad overpass. Mr. Keller asked Mr. Simmons about the sight distance from both directions on Cedar Lake Road, and Mr. Simmons' opinion was that it was not a problem. Chairman Sikkes stated that from the north side there is not a problem, but from the south side towards the railroad overpass could be an issue. Mr. Simmons stated Cedar Lake Road is County Route 616, and he believes they have satisfied all the requirements of the County for access to that point.

Mr. Thomas asked Mr. Simmons about the access easement line from Cedar Lake Road going in a southerly direction down to the edge of the property and then over to proposed Lot 3.06. The driveway is an existing driveway outside the easement, and Mr. Thomas wanted to know if the intent was to use the existing driveway or to use a new driveway built from Cedar Lake Road all the way down to proposed Lot 3.06. Mr. Simmons answered that the intent is to use the existing driveway and Mr. Fluri agreed. When the easement was set up, the driveway was not built within the easement. Mr. Simmons is suggesting to the Board that the existing driveway to Lot 3.01 (main house) and proposed Lot 3.07 (cottage) be realigned to be within the easement. There would need to be a vacating of a portion of the easement. Mr. Keiling suggested that the easement be vacated for Lot 3.05 and one new common driveway be incorporated for the review. Mr. Thomas asked who controls Lot 3.05, and Mr. Fluri answered that Lot 3.05 is his property as well. Chairman Sikkes asked Mr. Simmons to outline on the map the existing driveway from the road to the main house and he did so. Chairman Sikkes stated that if the property was ever sold they would need to have access to each of the properties, and Mrs. Waldron agreed this has happened in the past. Mr. Keiling and the Applicant will need to check with the County on driveway approval due to having two lots servicing the driveway. Mr. Steven Sikkes asked the grade of the existing driveway going to the larger Lot 3.01, and Mr. Simmons answered that it was about 10% as a rough estimate (under the 15% grade).

Mr. Keiling asked if the Board did not have any other questions, he suggested that subdividing and creating Lot 3.07 follows the Master Plan of not having two buildings on one property. Lot 3.06 has the extremely steep grade on Sand Hill Road which would make it impossible to build a driveway. Mr. Rodman wants any approval conditioned on the driveway maintenance agreement which includes all four (4) lots and permission from the County. Mrs. Waldron asked if the County denied the driveway, what would occur with the application. Mr. Thomas and Mr. Rodman answered that since it is a condition of approval, and if the condition was not met, the application would be an unsatisfied subdivision. Mr. Rodman continued that conditions would be the preconstruction meeting, soil conservation, review by the Warren County Health Department (septics and wells). Mr. Keiling did notice the Warren County Planning Board. Mr. Mohr asked if the only construction was the septic for the main building at this point. Chairman Sikkes stated yes, at this point, as they are creating a flag lot which would be part of a variance. Mr. Thomas respectfully stated that this is not a flag lot. This deals with a driveway ordinance which is not under the Land Use Ordinance section. There is a prohibition against driveways that cross rights of ways, easements, etc., and that is what they are in violation of. This is not part of the Land Use Ordinance section but the Board has the jurisdiction to determine if there is sufficient information to grant the waiver (which is different than variance standards). Chairman Sikkes asked that under a waiver, what would be the difference on the conditions? Mr. Thomas stated that the conditions are not different, but the standards are different. If there is a hardship existing here, that would be the basis for the waiver grant.

Mrs. Waldron asked if the property was farmland assessed now, and Mr. Fluri answered that it is forestry assessed. All the applications have been submitted and this is the second year. By next year, all 27-28 acres will be forestry management.

Mr. Mohr asked if they would be able to make a condition of favorable approval that they incorporate the realignment of the easements to the existing driveway as well as waivers for the existing driveway. Mr. Thomas stated that it all should be incorporated into an approval. Mrs. Waldron stated that in the past extended driveways or easement driveways need to ensure that the Fire Department, ambulance, or any emergency service can get there. Mr. Rodman answered that the driveway ordinance does provide for turnouts every so many feet, and that he approves the driveways. Mrs. Waldron again expressed concern about emergency services not being able to get in to proposed Lot 3.06. Mr. Mohr stated that it is unknown where a building would be located on proposed Lot 3.06. Mr. Keiling answered that the new proposed driveway would certainly incorporate turnouts. Mr. Mohr asked for a condition that would include review by the Fire Department. Mr. Mohr's biggest concern was a fire truck making the turn into the driveway off Cedar Lake Road where there are pillars.

Mr. Keller stated that Mr. Simmons testified that at the end of the existing driveway to proposed Lot 3.06, they would have to make a large cut for an extended driveway. Mr. Simmons answered that the slope is approximately 26% and the maximum the township allows is 15% which would mean a cut and a profile redeveloped. If the easement area has to be widened at proposed Lot 3.07 for a pulloff or redoing the slope, they could incorporate that into the easement. Chairman Sikkes asked about water runoff, and Mr. Simmons answered that there was a low area near the cut which could be diverted to the area of proposed Lot 3.07 where it would not cause damage to anyone else's property.

Mr. Keller asked if it would help to reconfigure the lot line in a more northerly direction where proposed Lot 3.07 meets proposed Lot 3.06. Mr. Simmons asked Mr. Fluri if this would be acceptable to him, and he agreed as long as the setback feet to the barn were still met. Mr. Simmons also stated that the Lot 3.01 is 8.03 acres so it would not make it substandard to six acres. Mrs. Waldron asked where Mr. Simmons would place a house on proposed Lot 3.06 due to the grade. Mr. Simmons answered that he took some additional test holes and most likely the septic would be a gravity system.

Mr. Thomas asked if there were view corridors that would impact a new home from being located farther up the hill, and Mr. Fluri answered no because of the barn and the way it plateaus down.

Chairman Sikkes asked if there were any other questions from the Board and there were none. He then opened it up to the Public and there were no questions.

Mr. Thomas stated with a favorable decision, the following conditions would apply:

- Requirement for a new driveway maintenance agreement for all four (4) lots including Lot 3.05
- Existing easement on proposed Lot 3.07 will be vacated and realigned with the existing driveway, and potentially existing easement into Lot 3.05 will be incorporated into the new easement for this subdivision
- New easement for Lot 3.01 across proposed Lot 3.07 in case of a future sale outside the family
- Approval of the Warren County Planning Board, Warren County Soil Conservation District, and Warren County Health Department
- Driveway design subject to Township Engineer and Fire Department review
- Redesign of proposed Lot 3.07 to be more flexible for driveway access
- Warren County Health Department approval of septic and well
- Payment of all appropriate fees and taxes.

Chairman Sikkes asked for a motion to approve the application with conditions as stated.

Action: A motion was duly made by Mrs. Murray, seconded by Mr. Keller, to approve the application with conditions.

Roll call vote: Green, Keller, Mach, Mohr, Murray, Repasky, S. Sikkes, Waldron and J. Sikkes – yes.

CORRESPONDENCE:

Info: July 26, 2019 letter from Roger Thomas to Teresa Kaminski, Warren County Department of Land Preservation re Laban container matter to be rescheduled from August 15 to September 2019 meeting.

Mr. Thomas advised that the Ag Board meeting continues to be pushed off and now it is September. There is some question on where the issue is going according to the Ag Board. Mr. Thomas also wanted to be clear with the Land Use Board that the Applicant did provide an escrow for their application which includes being used for activity and review by the Township Engineer and himself. This component of Mr. Thomas' representation at the Ag Board cannot be charged to the escrow. This money comes from the Land Use Board or the Township budget.

Info: Email from LUB Alternate Member, Marianna Stires, submitting her resignation effective July 29, 2019.

Chairman Sikkes advised that a letter was sent to Marianna thanking her for her service to the Board and hoping all goes well in the future for her and her husband. A care/concern card was also sent on behalf of the Board.

Info: July 31, 2019 letter from David Diehl, Zoning Officer, to State of NJ, Dept. of Children & Families, re proposed child care center at 155 Route 94, Block 1501, Lot 4, Zone HC-2

Info (placed with Berberian application): August 5, 2019 letter from David Diehl, Zoning Officer, to Land Use Board providing Berberian application chronology.

Info: August 5, 2019 Violation Letter from David Diehl, Zoning Officer, to Maciej & Lynn Wacławski, 3 Cedar Lake Road, as final notice on removing sea / land container as not a permitted use.

Chairman Sikkes stated that as of today he was advised that the trailer would be removed.

August 1, 2019 letter from Dr. William Austin, President, Warren County Community College asking for land use board members' opinions at a focus group on economic development decision-making on Saturday, September 7, 2019 for one to two hours. Chairman Sikkes advised that he will be attending this session.

Mr. Ted Rodman also advised that the First Presbyterian Church broke ground on Sunday, August 11, 2019 which meets their third extension (LB 06-15).

NJ Planner May/June 2019: Chairman Sikkes stated that everyone received a copy of the NJ Planner.

OTHER BUSINESS:

Knox Boxes: Chairman Sikkes stated that everyone had received a copy of the Knowlton Township Ordinance and has had a chance to review or make adjustments. Mr. Repasky stated that it would have to be expanded to the Police Department as well as the Fire Department since Knowlton's ordinance only addresses the Fire Department. Mr. Mohr believes it should go to the chiefs of both departments for comments, and then it should go to the Township Committee. Mr. Steven Sikkes stated that both Chief Johnsen and Chief Inscho both come to Township Committee meetings and both are in favor. Mrs. Murray stated that she is not convinced that the case has been proven to be necessary. Mrs. Waldron answered that several municipalities have instituted and it is very common in new businesses to install.

Mr. Mohr stated that it is important, especially in commercial occupancy, and it is to stop damage in the middle of the night for benign reasons. Mr. Steven Sikkes stated that it happens often.

Master Plan 2020 – Review/discussion of Land Use Board Members' and Zoning Officer's submissions for periodic re-examination of Master Plan.

Chairman Sikkes stated that the subcommittees need to be finalized and members need to decide on which sections of the Master Plan they are going to work. Chairman Sikkes explained that he and Dick Mach are going to work on the Zoning and Deb Waldron said she would be happy to join them. Mr. Keller stated that he would be happy to work on a section assigned to him, and Chairman Sikkes asked him to decide and get back to the Land Use Board Secretary. Mrs. Waldron stated that there are different elements and whoever has knowledge in certain areas should take part in that area. Mr. Mott stated that he will take the lead on Historic Preservation, and he will work with Barbara Green. Land Use Board Members can serve on more than one committee. Mr. Keller asked what the ultimate goal was, and Chairman Sikkes answered that the Board would come up with a report. Mr. Thomas made it clear that this is the Land Use Board's jurisdiction only and does not go to the Township Committee for any approval. Only changes to Ordinances from the report would go to the Township Committee.

NEW BUSINESS: None

PUBLIC PORTION: None

VOUCHERS: Professional services rendered.

Action: A motion was duly made by Mr. Mohr, seconded by Mrs. Waldron, to approve the Vouchers. Roll call vote: Green, Keller, Mach, Mohr, Murray, Repasky, S. Sikkes, Waldron, Mott, Talley, Baker, and J. Sikkes – yes.

ADJOURNMENT:

Chairman Sikkes asked the Board for a motion to adjourn.

Action: Upon a motion duly made by Mr. Mohr, seconded by Mrs. Waldron, and unanimously carried, the meeting was adjourned at 8:43 p.m.

Respectfully submitted,

Linda J. Grohs, Board Secretary