

BLAIRSTOWN TOWNSHIP
LAND USE BOARD
October 15, 2018

MINUTES

The Blairstown Township Land Use Board met in a regular session on Monday, October 15, 2018, at 7:30 pm at the Blairstown Municipal Building, 106 Route 94, Blairstown, New Jersey. The following members were present: Barbara Green, Nick Mohr, Rosalie Murray, Michael Repasky, Steven Sikkes, Joanne VanValkenburg, Jim Sikkes, Wickliffe Mott, Marianna Stires, and Norman Talley. David Keller and Debra Waldron were absent. 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.

Meeting was called to order by Chairman Jim Sikkes.

“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:

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:

Minutes of September 17, 2018 Regular Meeting of the Land Use Board were carried to the next meeting on October 15, 2018, for approval after revisions by Mr. Repasky are incorporated.

APPEAL OF ADMINISTRATIVE OFFICER:

None.

RESOLUTIONS:

LB#04-18 Petty, Blk 803, Lot 2.06 Application for a Bulk Variance

Mr. Thomas suggested that some modifications (syntax and tense changes) provided by Mrs. Green were made to this Resolution which he will have incorporated. Since there are no substantive changes, Mr. Thomas recommended that the Resolution can be adopted subject to those modifications.

Action: A motion was duly made by Mrs. Green, seconded by Mr. Repasky, to memorialize the resolution. Roll call vote: Green, Mohr, Murray, Repasky, S. Sikkes, J. Sikkes, Mott, Stires, and Talley – yes. VanValkenburg – abstained. Keller and Waldron – absent.

COMPLETENESS:

None.

PUBLIC HEARING:

LB#03-18 Mazzone, Blk 201, Lot 4.22 Application and Position Statement for Bulk Var.

Mrs. VanValkenburg was recused on this application.

Mr. Richard Keiling represented the Applicant, Christopher Mazzone, also in attendance. At the last meeting, photographs were offered and the Board had some questions about the size of the donkeys. Mr. Keiling asked Mr. Mazzone if he understood that he was sworn in at the last meeting and that he is still under oath, and Mr. Mazzone replied that he did.

Mr. Mazzone explained the following Exhibits:

A-14: is a full picture of one of their male donkeys showing the full height which is about three feet to the head from the bottom of his hoof. Mr. Keiling asked how far from the bottom of his hoof to the top of his body, and Mr. Mazzone replied about two feet, 7 inches.

A-15: is a large dog scale brought to the boarding location in order to get the weight of the donkey. A-15 shows that the donkey weighed in at 232 pounds which is a little more than normal. This is because they are being fed a little too much and do not have room to roam around. Mr. Mazzone confirmed that the other donkey is about the same size in height but is a little thinner because he moves around a little bit more.

A-16: Mr. Keiling stated that some of the Board members had questions about the relationship of the size of the donkeys in comparison with some other animals. Mr. Mazzone referred to the picture of the donkey next to a llama which is not their donkey or llama but a picture from the internet where the donkey is a similar size and is standing next to a llama. Mr. Keiling asked if the picture was of a miniature donkey and Mr. Mazzone confirmed this.

A-17: is a miniature equine standing next to a large dog to show that they are similar in size. Mr. Thomas asked what breed of dog was in A-17 and Mr. Mazzone responded that it was a type of Dalmatian.

A-18: is a miniature donkey standing next to a dog, which he believes is an Irish Wolf Hound.

Mr. Keiling recollected from the last meeting (September 17, 2018) that Blaiirstown does not have an Ordinance concerning what a non-household animal was. He suggested that the Board look at what the NJ Department of Agriculture, as well as some companion townships use. Mr. Keiling asked the Board to think back years ago when solar panel and cell tower ordinances were not in place, as not anticipated. He believes that when Blaiirstown developed

their solar panel ordinance, they may have looked at what surrounding towns may have used and used it as a template. Mr. Keiling is suggesting that the Board can use what surrounding towns, such as Pohatcong and Oxford, have used and what the Department of Agriculture has. Mr. Keiling then referenced Mr. Thomas' memo to the Board about Rutgers Extension, and Mr. Thomas stated that he initially went to Mr. Cox's book who referred to Rutgers Extension and then to animal units. Mr. Keiling suggested using the chart from Rutgers Extension where they compared two sheep where the size is between 100 pounds and 300 pounds. If you used 245 pounds as a top-end (which compares to the size of the donkey), the chart shows a sheep equals 1/5 of an animal unit. The Mazzones have two donkeys which would be 2/5 of an animal, which is less than 1/2 of an animal unit.

Mr. Thomas stated that he received a memo from Mr. Diehl dated October 10, 2018. He confirmed that Mr. Keiling has a copy. Mr. Diehl has a different approach and this is the basis for his decision in this matter and why it is before this Board. Mr. Diehl is not here tonight, but he admitted that none of these definitions are in the Blairstown Ordinance. Mr. Thomas agrees with Mr. Keiling that if it is not in the Ordinance, then you have to look at some other mechanism to define what you are ultimately accomplishing and make an interpretation. Mr. Diehl looks at it from the viewpoint of household animals and he has looked at other ordinances. His definition of household animals is animals kept as pets that reside inside the residence and are customary to the residential district. They shall also apply to licensed animals such as dogs and cats that may also reside outside on residential property. He then talks about the definition of non-household/pastoral animals, including but not limited to the following: horses, ponies, cows, cattle, sheep, goats, llamas, donkeys, mules, etc. He indicates that in his opinion, these donkeys are non-household animals and therefore do fall into the definition. That is Mr. Diehl's opinion as to why, as there are two, they do not meet the requirement of your Ordinance.

The Board must decide which approach to take. If you agree with Mr. Keiling's approach, it appears that the issue of the Variance as per the requirement involving the numbers of animals would not apply. The question of whether or not there are setbacks may still be an issue. You may agree with Mr. Keiling's analysis and what Mr. Cox is suggesting as he similarly refers to the guidelines in the Department of Agriculture. They seem to be the same or similar to what Mr. Keiling has provided in his review of local ordinances. If you alternatively believe the approach that Mr. Diehl, your Zoning Officer, is the appropriate one in terms of his way of defining household vs. non-household animals, then you have an issue not only with regard to setbacks but also with regard to the variance and the number of animals on the lot. Therefore, Mr. Thomas suggested that the first decision is which definition is going to apply – Mr. Diehl's or Mr. Keiling's. Mr. Keiling corrected that if the Board does not think it is an interpretation but a variance, he believes they do not need a side yard setback as they have met the requirements. The only requirement is the area requirement for the variance.

Mr. Thomas stated that you have the one set of definitions set forth by the Department of Agriculture or some of the local ordinances that Mr. Keiling has provided. These have to do with the animals themselves, as well as the size of the animals, and whether you define the animals as outdoor animals and the amount of acreage required. If you go along with that definition

(Department of Agriculture) and the weight of the donkeys, that definition states that you do not have two animals, you have one.

Mr. Thomas opened the discussion to the Board. Mr. Repasky said they should look at the intent of the ordinance and when it was written. If written quite a while ago, it was most likely written by farmers, and farmers have a specific definition of household and non-household animals. He believes that David Diehl's definition of household and non-household animals follows the farmers' definition. He thinks that is the intent of the ordinance when it was written.

Mr. Jim Sikkes believes when the ordinance was written, it had to do with the changing of the zoning also. This was to ensure there would not be a problem with people putting large animals on lots that were not adequate.

Mrs. Murray believes the definition offered by Mr. Keiling is quite definitive. It takes size, bulk size, and weight into consideration, and is a fair solution. As far as our ordinance, perhaps we could take some guidance from the ordinances that Mr. Keiling has uncovered. She believes it might be acceptable.

Mr. Keiling indicated at the last meeting the Board asked for specific lot number and property addresses on properties nearby that had animals on them. Mr. Mazzone did some research on tax records and found the following. Nancy Chiappini, Block 103, Lot 2 has two llamas. Mr. Jim Sikkes asked the size of the lot, and Mr. Mazzone replied that is 0.43 acres. Block 202, Lot 1.04 is a two acre lot with multiple goats over 150 pounds. Mr. Repasky doesn't think this is relevant because if someone else is not following the Ordinance does not mean that you should break the Ordinance. Mr. Keiling stated that they were just answering the Board's question as to the identification of the properties. Mrs. Murray made the point that the difference between the other owners and this owner is that they have applied for a variance and it would not open the floodgates for others to do as they please. Mr. Thomas disagreed because if the Board deals with the interpretation offered by the applicant, then they are setting a precedent on how non-household animals have been defined. If the Board agrees with Mr. Diehl's definition, there is a variance required and that, if granted, would not set a precedent.

Mr. Mazzone said that he did not get a specific definition except for hooved animals from Mr. Diehl and is concerned that before this meeting he provided a specific definition. He mentions pigs in the memo as non-household animals but allows pot-bellied pigs. Mr. Mazzone feels he is inconsistent in enforcement. Mr. Thomas stated that the Board has no jurisdiction over this.

Mr. Keiling recapped that the Rutgers, Department of Agriculture, and the two surrounding townships designate an animal unit by tenths. Mr. Diehl doesn't differentiate by size; he grouped them all together. Mr. Thomas stated that Mr. Diehl feels his definition is a good one as it defines household from non-household animals so as to protect the surrounding properties from unwarranted pests.

Mr. Jim Sikkes asked for confirmation of the Mazzones' lot size and confirmed it is 1.33 acres. You need two acres for one animal and one additional acre for each additional animal.

Mrs. Green asked the size of the fenced in area, and Mr. Mazzone was unsure but it is substantially larger than where the donkeys are currently boarded. Mr. Mazzone believes it is 375 feet around, and Mr. Mott calculated that it is slightly less than 5000 square feet.

Mr. Thomas and then Mr. Jim Sikkes asked for a motion on the interpretation. Mr. Repasky asked for a motion to follow David Diehl's definition of household and non-household animals.

Action: A motion was duly made by Mr. Repasky, seconded by Mrs. Green, to use David Diehl's definition of household and non-household animals. Roll call vote: Green, Repasky, J. Sikkes – yes. Mohr, Murray, S. Sikkes, Mott, Stires, Talley – no. VanValkenburg – abstained. Keller and Waldron – absent.

The motion was not carried.

Mr. Thomas asked for a motion to use the Rutgers' guidelines of November 1982 Home Animal Agriculture in residential areas using animal units.

Action: A motion was duly made by Mrs. Murray, seconded by Mr. Mott, to use the Rutgers' guidelines using animal units. Roll call vote: Mohr, Murray, S. Sikkes, Mott, Stires, Talley – yes. Green, Repasky, J. Sikkes – no. VanValkenburg – abstained. Keller and Waldron – absent.

Mr. Thomas confirmed that the motion carried and is defined as one animal.

Referring to Ted Rodman's memo of September 13, 2018, there are still variances.

- Section 19-505A(3) – no fence or wall shall be erected of barbed and/or electric wire. Based on testimony at last hearing, the applicant has removed from his plan any barbed or electric wire. This is no longer an issue, and Mr. Rodman stated this will be based on a site inspection.
- Section 19-505A(4) – except for farm fences, all other fences shall require the issuance of a zoning permit. Mr. Thomas stated that he will advise Mr. Diehl of the definition outcome and that a zoning permit will need to be issued. Mr. Keiling stated that the zoning permit has been applied for and is waiting for the outcome of this meeting. Mr. Jim Sikkes asked for clarity on the zoning permit, and Mr. Thomas explained that if Mr. Diehl had denied the zoning permit due to the animals not meeting the definition, he has to change that. If the fence as constructed violates a provision of the ordinance, then he has to do that analysis. Mr. Diehl needs to explain the outcome to Mr. Mazzone, and either Mr. Mazzone will come back to the Board seeking a reversal of that decision or comply with fence modifications.
- Section 19-405B(4) – accessory structures incidental to a farm requires that barns with livestock to be a minimum of twice the height of the accessory building or 100 feet, whichever is less, from the property line. Mr. Keiling stated the Mazzones are not a farm, but that the height of the building is 8.5 feet and the side yard is 24.9, so they are twice the required.

Mr. Thomas asked Mr. Rodman if there were any other suggestions or modifications, and Mr. Rodman said there were none.

Mr. Thomas advised the Board there should be a motion on Item #2 that the applicant will abide by all fence provisions and issuance of a zoning permit and include instructions to Mr. Diehl that the analysis to be used in the future will be the Rutgers' analysis and not the one he has been using up to this point. Mr. Repasky asked Mr. Thomas to confirm if the statement is that the fence requires the issuance of a zoning permit. Thomas stated that Mr. Diehl most likely denied the zoning permit because the animals did not have the two acres, and if so, he needs to be made aware that is no longer applicable. Mr. Thomas stated that if there are other issues with the fence, and Mr. Mohr defined as inconsistent with any aspect of the Ordinance other than farm animals, Mr. Diehl must issue the zoning permit if it meets all requirements of the fence ordinance. He believes the Board needs to state that the zoning permit is still a requirement issued by Mr. Diehl, not granting a variance as it is not. Mr. Mazzone will either comply or come back to the Board seeking a variance.

Mr. Mott asked for further clarification. Mr. Thomas explained that independent of the animals, the fence must be approved according to the Ordinance. Mr. Diehl will then inform Mr. Mazzone that he approves the fence permit or does not approve it for not meeting requirements.

Action: A motion was duly made by Mrs. Murray, seconded by Mr. Mott, to approve need for Mr. Mazzone to comply with the Ordinance for the fence application zoning permit under Section 505A(4). Roll call vote: Green, Mohr, Murray, Repasky, S. Sikkes, Mott, Stires, Talley, Mr. Jim Sikes - yes. VanValkenburg – abstained. Keller and Waldron – absent.

Mr. Keiling asked for confirmation that his client will go back to Mr. Diehl for the zoning permit for the fence and that there is nothing else they need to do. Mr. Thomas confirmed and a resolution will be memorialized.

Mr. Repasky said the Ordinance reads that you need two acres for one animal, and that Mr. Thomas said by the Rutgers definition they have one animal. Mr. Repasky said they don't have two acres. The applicant came in for a Bulk C Variance, and we have not addressed that. Mr. Jim Sikkes asked Mr. Keiling and the applicant to return.

Mr. Thomas recapped to Mr. Keiling and Mr. Mazzone that they have one animal by the Rutgers definition but they do not have the required two acres. Mr. Keiling said the Rutgers definition showed that one sheep is 1/5 of an animal, and they have two donkeys which is 2/5 of an animal. Therefore, they have less than one animal. Mr. Jim Sikkes stated that they do have two animals, not imaginary, so they need two acres unless they have a variance. Mr. Keiling stated that if that is the Board's decision, they are applying for the variance.

Mr. Mott says that he would make a motion to grant the variance on the basis of the Rutgers analysis because the applicant would be slightly less than one animal unit. Per our Ordinance, one animal for two acres. The first animal unit would be up to 1000 pounds and if they had over 1000 pounds, they would need an additional acre. Mr. Thomas restated that they are using the Rutgers definition whereby two physical animals equals one or a fraction of one animal unit. He agrees that there should be a Variance. The positive criteria is that there is less than one animal unit so you don't need the full two acres. This is from a science viewpoint where Rutgers allows up to 1000 pounds and the donkeys weigh 500 pounds. The negative criteria is if the

Board feels the two animals will create any negative impact to the surrounding properties in terms of their existence in the area.

Mr. Jim Sikkes opened the meeting to the Public. There was no comment.

Mr. Jim Sikkes returned to the Board for comments.

Mr. Mohr had two comments. First he thanked Mr. Repasky for the book and Mr. Mohr read the exact text. The growing and harvesting of plant life and the keeping of non-household animals for the enjoyment of the residents on the property and not for commercial purposes provided the following. Mr. Thomas asked if this was the Ordinance, and Mr. Mohr said this is Ordinance 19-203, page 19-24. A lot of at least two acres in size is required for the keeping of one non-household animal and it goes on to speak to additional acreages for additional animals. The Rutgers definition from 1982 USDA speaks of large to medium-sized animals which it defines as cattle, horses, sheep, goats, and swine. Mr. Keiling has repeated several times that he is equating miniature donkeys to sheep. It says lot size – minimum lot size to be considered including the dwelling site shall be one acre. No more than one animal unit shall be kept on the first acre and no more than one animal unit for each acre up to a total lot size of three acres. Above the three acre lot size, animal numbers should be determined on a site specific basis but not exceed more than 1 ½ animal units per acre. Parts of an acre above one acre may be used to determine numbers of mature, large and medium-sized or immature, large and medium-sized livestock. For specific description, refer to the table previously referenced. Mr. Mohr feels that the two are inconsistent with each other in totality. We have no choice but to go by the Ordinance or grant relief based on the text in the Ordinance, not the text in the Rutgers' document. If we were to choose to change the Ordinance at a later date to meet the Rutgers' document, that would be a separate issue.

Mr. Thomas feels that the argument is that we don't have one animal unit in this case and don't need to have a full acre. Mr. Mohr said minimum lot size shall be one acre in the Rutgers definition. The Ordinance says you have to have two acres for one non-household animal. Mr. Mohr stated that it means "do you round 4/10 to one". Mr. Repasky believes that with any non-residential animals you need two acres. Mr. Thomas confirmed the Board has the power to grant the Variance if the positive and negative criteria is met. Since you have less than one animal unit based on the Rutgers' analysis and you have 1.33 acres (not the two acres), is the excess of one acre sufficient to accommodate the less than one animal unit (which is two donkeys).

Mr. Jim Sikkes asked for a motion that is worded properly by Mr. Thomas so that it is very clear. Mr. Thomas suggests to make the motion for granting the variance in this unique circumstance for these specific animals based on the Rutgers' analysis. Mr. Thomas suggests it could be a C1 Variance because the lot is constrained and there is no additional property to be added. There is also a purpose of zoning under C2 that provides a basis as the testimony has indicated for advancement of educational knowledge as it was suggested that the children in the area be familiarized with what the donkeys are doing there. Mr. Mohr asked Mr. Keiling if there was any more evidence for positive or negative criteria. Mr. Keiling stated that there are no objectors here testifying that they find them offensive. As far as the positive criteria, Mr. Mazzone has

testified that he has in effect a maintenance and upkeep plan. He has made arrangements with Sanico and they have no problem with the disposition of the waste product which is mixed with wood chips. Their neighbor has testified that their son comes over and interacts with them. We don't have 4H in the high schools anymore (perhaps referring to Agriculture Program, Future Farmers of America – not 4H), so this is an opportunity for interaction between youth and these benign, friendly animals.

Mr. Jim Sikkes acknowledged a member of the Public and Mr. Thomas reminded Jacqueline Bolcar that she remains under oath. Ms. Bolcar mentioned the other aspect is living two houses from the Mazzones that she has heard dogs barking in the middle of the night. The donkeys make very little noise, there is no smell, and the yard is very clean. The donkeys are not a nuisance to anybody, they have taken the proper care to dispose of everything properly.

Mr. Mott had the following comments. If you say each donkey is 240-250 pounds which makes the two donkeys weigh 500 pounds, the Rutgers states 2/5 of an animal unit. If you were to look at the ratio of one animal unit as 1000 pounds as a non-household animal for two acres, to a lot of 1.33 acres for less than an animal unit. The ratio of the body weight and the acreage is still in balance. Mr. Mott doesn't feel this case jeopardizes the Township's zoning.

Mr. Jim Sikkes asked for a motion on Mr. Thomas' proposed resolution wording.

Action: A motion was duly made by Mr. Mott, seconded by Mrs. Murray, to approve the granting of a C Variance for this application only. Mohr, Murray, J. Sikkes, Mott, Stires, Talley – yes. Green, Repasky – no. S. Sikkes and VanValkenburg – abstained. Keller and Waldron – absent.

LB#05-18 Farley, Blk 1206, Lot 4 Interpretation

Mr. Thomas confirmed that Mr. Randolph Farley was previously sworn in at the September 17 meeting.

Mr. Thomas reiterated the necessary information that Mr. Farley would need and asked if he was ready to proceed. Mr. Farley confirmed he was ready and that he had separate entrances and electrical facilities. He is seeking to continue use of a pre-existing, nonconforming use.

Mr. Farley explained the following Exhibits:

A-1: is a picture of the three separate entrances, showing the common area in the rear of the building for a back door for two of the apartments.

Mr. Jim Sikkes asked if Mr. Farley had found out how long the three-family had been in existence. Mr. Farley could not find an exact date but he has found one of the previous owners who is here tonight. He found a picture tonight upon entering the Board Room and sees his building and the old cars from the sixties. There are three vent pipes coming out of the house which is coming from his building from the three bathrooms.

A-2: shows the three kitchens in the building. Mr. Thomas asked Mr. Farley to confirm they are separate kitchens which he did.

A-3: shows the sub-panel for each of the units and the meters outside the building.

A-4: shows a printout from the water company recognizing his building as three units. Mr. Thomas asked which water company, and Mr. Farley confirmed it is Blairstown Water Company. Mr. Mohr confirmed the accounting software dated 7/16/2018.

Mr. Farley asked one of the previous owners, Ann Sandberg, who owned the building to come to the house to see if any recent changes in the past couple of years since she owned, and she stated the kitchens and full bathrooms with showers are there. Mr. Thomas then swore in Ann Sandberg, 14 Sunset Hill, Blairstown. Mr. Thomas reviewed with Ann Mr. Farley's previous testimony stating that photographic evidence that these units have separate entrances, separate kitchens, and separate electrical and water. Ms. Sandberg purchased the building in late 1997 or early 1998, and she paid the one water meter. Ms. Green stated they put in separate water meters a few years ago. Mr. Thomas asked if when Ms. Sandberg purchased the building if there were and she rented them as three separate kitchens, separate entrances, separate electric, and did you rent them as three separate apartments. Ms. Sandberg said that honestly when she rented them they were zoned as two apartments and one commercial. The small entrance on the right with the steps was an office or commercial venture. They were two rooms with the bathroom – two rooms as almost one room (not divided into two). There was a quarter of a wall coming in on each side, so it was two areas, but one room. Ms. Sandberg rented it as a showroom/office at one time. The kitchen in the back was the original kitchen which was not usable at the time. The sink did work, but it was not part of any unit at that time. However, it is a kitchen and could be made available. The house is set up and could be three apartments.

Mr. Thomas stated that Ms. Sandberg purchased the building as two apartments and a commercial unit and asked Ms. Sandberg if she rented it that way. Ms. Sandberg confirmed this. Mr. Thomas asked how long they owned the building and Ms. Sandberg answered that they owned the building until 2004 when they sold it to Wesley Jones. Ms. Sandberg stated that she has not been in the unit since 2004 when sold until Saturday. Mr. Jim Sikkes asked if she was aware of any changes since selling to Mr. Jones. Mr. Thomas asked Ms. Sandberg if she sold it to Mr. Jones as two apartments and a commercial and she confirmed. Ms. Sandberg stated that the building was basically the same with the office which could conceivably be an apartment. Ms. Sandberg rented it as a commercial property as they were told that was the way it was zoned at that time. Mr. Farley asked Ms. Sandberg to confirm that there was a bathroom and a shower in the office. Mr. Jim Sikkes stated that Mr. Jones is the one who should be in front of the Land Use Board to tell the Board how the change took place. Mr. Farley responded that he didn't physically change it, he just rented it out as three apartments. Mr. Jim Sikkes stated that it was a commercial unit with two residences, unless Mr. Jones had made arrangements with the Town to change the use to three apartments. Mr. Farley explained that this is why he is before the Board, and Mr. Jim Sikkes stated that Mr. Farley is not giving them the answer as to whether it was done properly. Mr. Farley spoke with David Diehl and to his knowledge it was never changed to a legal three family, and this is why Mr. Farley is here today. Mr. Thomas stated that he has the impression that Mr. Jones made his changes without the required paperwork. Ms. Green stated that there should be records as it was after the fire which

was in 2000. Ms. Green also stated that Mr. Keiling is a possible contact as he usually represented Mr. Jones.

Mr. Mohr questioned whether it is a requirement that a pre-existing non-conforming use be continuous through until now. Mr. Thomas explained this comes up in the context of abandonment. For example, if you have a three-bedroom apartment but over the last fifteen years have only been able to rent two of them (and one remains vacant but as an apartment), then that is not an abandonment. If you have a building authorized to be two apartments and a commercial, and the commercial gets changed without proper permits to an apartment, that can be a problem.

Mr. Jim Sikkes asked the results of the title search, and Mr. Farley stated there was no information saying the building was a three unit or a one unit. The deed doesn't specify either; it only states that it is a two-story dwelling. Mr. Mohr asked what type of deed it is, and it was stated that it was a foreclosure. Mr. Mohr also confirmed that it is a Special Bargain and Sale with Covenants which is pretty standard. Mr. Thomas said the foreclosure element is not terribly relevant. Mr. Thomas agrees that there are three separate units, two of which are apartments and one is commercial which would have the same requirements for electric and water. Mr. Farley reiterated that the office space does have a full bathroom with a shower which is not in your typical office. Mr. Thomas stated that his office does.

Ms. Sandberg said the Johnsons owned the house as a single family house when she moved to Blairstown in 1962. Ms. Sandberg knew the Johnsons well beginning in 1967 and had only been in the kitchen which is still there. Mr. Thomas asked if she had any recollection of the house being utilized in 1967 as a single family house or as an apartment at that time. Mr. Johnson passed away in the 1970's and his wife Betty sold the home. Ms. Sandberg purchased from Helga Dough (sp?) and it was a three unit building at that time.

Mr. Thomas stated they need to find out when Mr. Johnson died and what the zoning was and whether it was a three family or a two family. The concern is when sold by Ms. Sandberg to Mr. Jones it was sold as a two-family and a commercial which is an abandonment. Mr. Farley would still have the opportunity for a variance, but the intent of this meeting is the verification of the building as a three-apartment building. Unfortunately, the proof burden lies with Mr. Farley.

If Mr. Jones sought a variance with the Town and the records should be available, then the three family would stand. If not completed, then the Interpretation will fail. Alternatively, if Mr. Farley can establish that it was rented to an employee, then it would need Mr. Jones to verify who is still alive. Mr. Jim Sikkes stated Mr. Farley should go to the town to do the research. Ms. Green believes that Mr. Farley could speak with Mr. Paul Avery, Committeeman, who was instrumental in getting all the separate water meters installed. That is why there are three meters there and maybe there was a designation on the records.

Mr. Thomas swore in Mr. Randy Farley, Sr., who resides at 55A Primrose Road, Hardwick. Mr. Farley Sr. believes that the entire section of Main Street where his son's building is located is all residential. They also tried to get Mr. Wesley Jones to come to the meeting but he will not as Mr. Jones lost the building to the bank. Mr. Farley Sr. stated that there are three kitchens, same

cabinets, and it was cleaned up and painted. Everything is hard wired for carbon and smoke, interlocks as state code for three residential units. Two years ago, the water department came in and stated that even though there are three units, there was one service. They made them three services for the three units. Mr. Farley Jr. asked Mr. Diehl to do a walk-around of the house and that it can legally house three units. Mr. Farley Sr. stated they certainly don't need another storefront in this section of town.

Mr. Thomas suggested that Mr. Farley file a variance application and translate the Interpretation into a Variance application.

Ms. Green asked if there were a couple of owners in between the Johnsons and Ms. Sandberg and if Mr. Farley had tried to contact them. He stated that there were two or three. One passed away, one was a wrong number, Ms. Green suggested going to the County and looking through all of the deeds. Mr. Thomas interjected that this line of research will not work as now there is an issue of abandonment. Unless there is paperwork converting the building back to a three-apartment, it does not pertain.

Mr. Mohr said there are two options - seek Mr. Jones for a change of use or apply for their own variance.

Mr. Thomas also stated that the prior owner should have disclosed the situation to Mr. Farley. The next course of action would be to file for a variance at the November meeting.

Mr. Repasky asked if they currently have three tenants, and Mr. Farley Sr. stated that they have no tenants. They are trying to do the right thing and is why they are here.

Mr. Mohr stated that obviously there are costs to a Variance and there are no costs to check to see if there already is one. Mr. Thomas will check with the Zoning Officer, David Diehl, to see if he can do some deeper research to find something helpful.

Mr. Mott stated that the variance would go with the land and if Mr. Farley went to sell the property in fifteen years, it would be free and clear. Mr. Thomas confirmed this.

Mr. Mohr stated that in David's memo of September 10, you are located in the VN zone and Mr. Farley could look at what permitted uses are in the VN zone beyond two residential units. Mr. Farley stated that Mr. Diehl told him that the VN zone is only allowed to have two residential units per building. Mr. Farley feels there is more demand and it is better for the Town to have three residential apartments rather than two apartments and one commercial. Mr. Mott agreed that from a historical district standpoint that Mr. Farley is right that the cutoff is the brick bank from commercial to residential. Mr. Repasky asked if they could rent the two apartments now, and Mr. Thomas confirmed – except the commercial one.

Mr. Farley will pursue the paperwork for the Variance, and Mr. Thomas advised Mr. Farley that he does need to do the Notice again as it is a Variance.

CORRESPONDENCE:

Mr. Jim Sikkes stated that we received a copy of a letter from the Soil Conservation District in reference to Montage and they approved the soil erosion plan. This is part of the agreement.

Warren County Planning Department letter to the Mayors referencing the Transportation Technical Study which is more of a Township issue and can be viewed in the meeting room.

NJ Planner – everyone received a copy.

OTHER BUSINESS: None

NEW BUSINESS:

Master Plan – is it due in 2020 or should review start in 2020. Mr. Thomas would like very much for it to be done in 2020 and not begun in 2020 and carried to 2021. The reason is the update has to be done within ten years and 2020 is the tenth year. If not completed, there is litigation and there is no longer a presumption of validity to your ordinances. Mr. Jim Sikkes stated that in the beginning of 2019 the Board should work on the Master Plan for additions or changes. This doesn't mean it has to be redone, just make adjustments as necessary. There are several items that should be addressed and included into the Master Plan. Mrs. Murray asked if there was a need for a Planner, and Mr. Thomas stated that they should proceed and get help as needed. Ms. VanValkenburg stated that they are putting \$60,000 into the budget for this process.

PUBLIC PORTION:

There was nothing.

VOUCHERS: Professional services rendered.

Action: Upon a motion duly made by Mr. Mohr, seconded by Mrs. Green, escrow vouchers, as attached to these minutes, were approved. Roll call vote: Green, Mohr, Murray, Repasky, S. Sikkes, VanValkenburg, Mott, Stires, Talley, J. Sikkes – yes. Waldron – absent.

ADJOURNMENT:

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

Action: Upon a motion duly made by Mr. Mohr, seconded by Mrs. Murray, and unanimously carried, the meeting was adjourned at 9:12 pm.

Respectfully submitted,

Linda J. Grohs, Board Secretary