

BLAIRSTOWN TOWNSHIP
LAND USE BOARD
September 17, 2018

MINUTES

The Blairstown Township Land Use Board met in a regular session on Monday, September 17, 2018, at 7:23 pm at the Blairstown Municipal Building, 106 Route 94, Blairstown, New Jersey. The following members were present: David Keller, Nick Mohr, Rosalie Murray, Michael Repasky, Steven Sikkes, Joanne Van Valkenburg, Debra Waldron, Jim Sikkes, Wickliffe Mott, Marianna Stires, and Norman Talley. Barbara Green was 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. There is also a new application form on our website that identifies procedures to follow and the application deadlines.

MINUTES OF PREVIOUS MEETINGS:

Minutes of July 16, 2018 Regular Meeting of the Land Use Board were approved, as written. There was no August meeting.

Action: A motion was duly made by Mr. Keller, seconded by Mr. S. Sikkes, to approve the Minutes of the July 16, 2018 Regular Meeting of the Land Use Board, as written.
Roll call vote: Keller, Murray, Repasky, S. Sikkes, Van Valkenburg, Waldron, J. Sikkes – yes. Mohr and Stires – abstained. Green – absent.

APPEAL OF ADMINISTRATIVE OFFICER:

None.

RESOLUTIONS:

LB#03-18 Mazzone, Blk 201, Lot 4.22 Application and Position Statement for Bulk Variance was incomplete on July 16, 2018.

Action: A motion was duly made by Mr. Repasky, seconded by Mr. Keller, to deem **LB#03-18 Mazzone**, Blk 201, Lot 4.22 Application and Position Statement for Bulk Var. incomplete. Roll call vote: Keller, Murray, Repasky, S. Sikkes, Van Valkenburg, Waldron, J. Sikkes, Mott and Talley – yes. Mohr and Stires – abstained. Green – absent.

ORDINANCE NO. 2018-12 Amending Chap 19 - re: Marijuana – from Town Clerk approved by Township Committee on June 13, 2018. Resolution to memorialize changes made by Mr. Mott as consistency resolution that was approved by the Board on July 16, 2018.

Action: A motion was duly made by Mrs. Waldron, seconded by Mr. Keller, to memorialize the resolution. Roll call vote: Keller, Repasky, S. Sikkes, Van Valkenburg, Waldron, J. Sikkes, Mott and Talley – yes. Murray – no. Mohr and Stires – abstained. Green – absent.

COMPLETENESS:

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

Mrs. Van Valkenburg and Mrs. Waldron were recused on this application.

Richard Keiling, Esq. represented the Applicant, Chris Mazzone, who was also in attendance. Mr. Keiling stated that they did advertise in the newspaper, sent certified mail letters to all adjoining property owners, and provided the Board with the site plan map. This should now deem them complete and later (during this meeting) want to hold their Public Hearing.

Mr. Rodman recommended that this application be deemed complete with waivers.

Action: A motion was duly made by Mr. Repasky, seconded by Mr. Mohr, to deem **LB#03-18 Mazzone**, Blk 201, Lot 4.22 Application and Position Statement for Bulk Var. complete. Roll call vote: Keller, Mohr, Murray, Repasky, S. Sikkes, J. Sikkes, Mott and Talley – yes. Abstain – Stires, Van Valkenburg and Waldron. Absent - Green.

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

Mr. Rodman stated that in his report there were several items that would have to be waived and he recommended that the application be deemed complete with waivers. Mr. Rodman reiterated that by deeming the application complete that this does not mean that the items cannot be discussed at the Public Hearing.

Mr. Keller stated that the plan should be professionally prepared and a complete plat submitted, and he makes a motion to deem the application incomplete.

Action: A motion was duly made by Mr. Keller to deem the application incomplete, but there was no second. Motion was denied.

Action: A motion was duly made by Mr. Repasky, seconded by Mr. Mohr, to deem **LB#04-18 Petty**, Blk 803, Lot 2.06 Application for a Bulk Variance complete. Roll call vote: Mohr, Murray, Repasky, S. Sikkes, J. Sikkes, Mott, Stires, Talley – yes. No – Keller. Abstain – Van Valkenburg and Waldron. Absent – Green.

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

There is no determination of completeness on an Interpretation.

PUBLIC HEARING:

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

Mrs. Van Valkenburg and Mrs. Waldron were recused on this application.

Mr. Richard Keiling represented the Applicant, Christopher Mazzone, who was also in attendance. Mr. Thomas swore in Mr. Mazzone who resides at 122 Gaisler Road, Blairstown.

Mr. Keiling stated that his client purchased property in Blairstown on Gaisler Road about a year ago and brought to the property a couple of miniature donkeys. After reviewing the Ordinance Book to determine if there was adequate acreage, application was initially made seeking a C Bulk Variance. Mr. Keiling asked to present to Board information about the property, what the animals are like, how big they are, etc., and also information about proposed ordinances from neighboring towns. After investigation seeking definitions within the Township, there is no definition of a non-agricultural animal. It is unknown whether a miniature donkey, a Shetland pony, etc., constitutes a non-agricultural because there is no definition. Mr. Jim Sikkes stated that they are agricultural animals, and Mr. Keiling agreed but that there is no definition for agricultural animals.

Mr. Keiling asked Mr. Mazzone the size of his property, and he replied that it is 1.33 acres. The property is landscaped front and back, and they have mature woods behind it. When asked the age of the donkeys by Mr. Keiling, Mr. Mazzone stated that they are fairly young and they adopted them from a nearby animal sanctuary in Columbia. The donkeys are 125 pounds each, maybe 150 pounds, and are full grown. The Mazzones have a wood cedar fence in the front of the back yard and a livestock fence around it.

Mr. Mazzone presented and explained the following Exhibits. Mr. Thomas asked Mr. Mazzone to describe A-1. Mr. Mazzone replied that A-1 is a photo of the shed and the paddock area. During the day they are out in the paddock when we are not home. When home, we let them out to graze, maybe a half hour in the morning and a half hour in the evening. At night, the donkeys get locked in the shed. Mr. Thomas said the shed that is shown on the plan is the animal shed and that was confirmed by Mr. Mazzone. Mr. Mazzone explained that the metal fence is the livestock fence that goes around the back yard. The corral is the paddock area where the donkeys are maintained during the day. Mr. Repasky asked Mr. Mazzone what livestock fence meant: electric fence, barbed wire fence? Mr. Mazzone said it is a regular, chain-style fence; no electric on it. There was at one time, but now it is disconnected. Mr. Keller asked for confirmation that the fence is not electric. Mr. Diehl, Zoning Officer, had advised the Mazzones that it was a zoning violation. Mr. Keiling asked if it was just one wire electrified, and Mr. Mazzone replied that it was three wires.

A-2 showed the next area of the yard: landscaping and grazing areas. Mr. Keiling asked if the area by the evergreen tree on left side of picture showed a fence. Mr. Mazzone confirmed that

this is the metal fence and that it is about three inch by three inch squares. Mr. Mazzone lets the donkeys out in the lawn area early in the morning and when he gets home from work.

A-3 shows additional parts of the back yard property which is a fairly nice sized area to graze in. Mr. Keiling asked where photos were taken and Mr. Mazzone replied that they were from inside his property, which is adjacent to his neighbor's property, the O'Flanagans.

A-4 is from the very edge of the Mazzones' fence line looking on to their property area that shows what that looks like with the trees blocking it. Mr. Keiling asked Mr. Mazzone to confirm that it shows a close-up of the fence, and he did. The far right hand corner of the photo shows the neighbor's screened-in porch, their sunroom. Mr. Mazzone gauged the distance from his property line to the neighbor's screened-in porch as 75 feet, maybe 100 feet.

A-5 is the view from the very edge of the paddock area from the donkey pen to the neighbor's house. Mr. Keiling asked if the photo also showed the Mazzones' deck which he confirmed. Looking beyond the Mazzones' deck is a row of trees that separates their property from their neighbor's property. If the Mazzones were on their deck, they would not be able to see the neighbor's house. Mr. Jim Sikkes asked the number of feet from the livestock building to the property line. The distance is 24.9 feet per the plans Mr. Thomas responded. Mr. Mazzone answered Mr. Keiling's question on shed height as being 8.5 feet. Mr. Keiling stated Mr. Rodman's report says that you need to be double the height of the shed and they are almost 25 feet. Seventeen (17) feet would be required and they are almost 25 feet. Mr. Jim Sikkes said that they are dealing with farm barns and not sheds, and even though that is how it was written, it was not the intent.

A-6 is a closeup of the paddock area and the shed for the donkeys.

A-7 is a picture of one of the miniature donkeys, Shrek. There is a little boy next to the donkey. Mr. Mazzone said the donkey is about three feet tall, and the other donkey is about the same size.

Mr. Keiling asked if there are any other animals in the neighborhood, whether they are goats, donkeys, etc. Mr. Mazzone replied that there are quite a few.

A-8 is a picture of a 150 pound goat that lives down the street from them on Gaisler Road. It is located on a residential property, size unknown.

A-9 shows a llama on a lot at the edge of Gaisler Road near the Mazzones that is less than one half acre. Mr. Jim Sikkes stated that without property names and property size, they do not pertain, even though they can be accepted into evidence. Mr. Mazzone stated that there are two llamas on their side and many on the other side. Mr. Mazzone said the llama property is much smaller than theirs. Mr. Repasky said they are not concerned with what is fenced in, but they are concerned with what the total property acreage is. Mr. Mazzone said it just showed the plot outline which is the same as the fence. Mr. Keiling said they are trying to show there are other animals in the area. Mr. Jim Sikkes said that without property size, that cannot be entered into evidence. Mr. Keiling stated he could go to the tax records to obtain the data if necessary.

Mr. Keiling asked where animals are contained when the Mazzones are at work during the day. Mr. Mazzone stated that they are contained in the paddock and not out on the lawn. At night, they let them out a little to graze and then they lock them up in the actual shed. When asked about waste product, Mr. Mazzone answered that they scoop three times a day if needed, once before they go to work, once in the afternoon when his wife gets home from work, and then again in the evening when he gets home from work. The waste is then put in a plastic bag with cedar shavings and some lime, and the bags go in the trash. Mr. Mazzone confirmed with the trash company that it was the procedure to take. Mr. Keiling asked if he spoke with Sanico and they said that was the best procedure, and Mr. Mazzone confirmed.

Mr. Keiling asked that when Mr. Mazzone spoke with the Zoning Officer if there was a definition of a non-household animal. Mr. Mazzone said that the Zoning Officer said there was no definition but that if an animal had hooves that it was a non-household animal.

Mr. Keiling asked if the Mazzones had attempted to secure or purchase any other adjoining property to procure additional acreage. Mr. Mazzone replied in the affirmative that they did try to purchase property from Bruce Jones who lives behind them. This is the only additional property; others would require purchasing the homes along with the property. Mr. Jones sympathized with the Mazzones but was not inclined to sell at this time.

Mr. Keiling asked if the Mazzones had any discussions with their neighbor. Mr. Mazzone said that they have spoken to Ann O'Flanagan about ten to twelve times throughout this process. Mrs. O'Flanagan outlined several concerns, but when the donkeys were on the property, she had several people visit who walked up to the fence line. Mrs. O'Flanagan wanted to think about having the donkeys there. When Mr. Mazzone followed up with Mrs. O'Flanagan after visitors, they said there was no smell or noise. Mrs. O'Flanagan was still worried about how it would smell on a 100 degree day when it is really hot. Mr. Mazzone said he was also concerned about that, and he explained their waste management system to her. At that time, she did not have any other concerns. Mr. Mazzone had already addressed her concerns about the electric fence. Mr. Mazzone also confirmed that he took the electric fence down.

Since there is no definition for non-household animals in the local ordinance, Mr. Keiling went to the New Jersey Department of Agriculture. Mr. Keiling has a copy of their regulations (Exhibit A-11) concerning what an animal unit is.

A-10 is a photo of a German Shepherd. Mr. Keiling explained when asked for relevance that the German Shepherd is to show the size of the animal in comparison to the donkeys. Mr. Thomas asked where the picture of the German Shepherd came from, and Mr. Mazzone stated that the dog belongs to one of their neighbors on Gaisler Road. Mr. Repasky stated that unless the picture was taken of the German Shepherd next to the donkey or with the llama, we don't have a comparison. Mr. Keller said it would be nice if you took the picture side by side. Mr. Keiling stated that if you look at the llama and then you look at the donkey in relation to the little boy. Mr. Repasky said that pictures can be taken far away or close up and it shows a difference. Mr. Keiling responded that trying to get the donkey over to the llama that is in a cage would be a little bit difficult.

Mr. Keiling went back to Exhibit A-11 and explained that they have the definition (of an agricultural unit) by the Department of Agriculture which identifies a 1000 pound of live body. There is also one from Oxford Township (Exhibit A-12). Mr. Thomas asked if there were extra copies of the definitions; Mr. Keiling replied yes; Mr. Rodman said he was passing them down. Mr. Keiling stated that on the second page of Oxford they refer to an animal unit as defined as livestock. Each horse, mule, pony, cow shall be considered one unit. Each swine shall be considered as a half an animal unit, and each goat or sheep shall be considered 0.2 animal units. Mr. Keiling would propose to this Board that the goat which his client identified as about 150 pounds is comparable to the size of a donkey so they qualify this as 0.2 units. We have two of them so we don't even reach the one unit measure. Pohatcong Township's definition (Exhibit A-13) on page 2 refers to an animal unit as 1000 pounds of non-household animals including livestock such as horses, cattle, llamas, alpacas, sheep, goats, ostriches, emus, etc. Mr. Mazzone testified that each of the donkeys have full growth weight of approximately 150 pounds so that would be 300 pounds which would not even qualify as one animal unit in the other Townships. Blairstown Township does not have a definition so Mr. Keiling is suggesting to the Board, since there is no definition, what is his client's requirement to comply. The Board could say you need five acres, you need two acres, or whatever. Since there is no definition of how the non-household animal is determined, Mr. Keiling thinks we can use the Department of Agriculture as one, and we can use two from the other townships.

Mr. Keiling explained that in the application submission there were two certifications secured by Mr. Mazzone that these donkeys are emotional support animals for his wife (Mrs. Mazzone). Mr. Keiling is suggesting to the Board that it is very similar to a dog. Mr. Keiling stated that a friend of his recently purchased a St. Bernard. That animal is nine (9) months old and weighs 140 pounds. Mr. Keiling didn't disagree that a donkey sounds a bit different, but to compare it size-wise to some other animals, like the Shepherd, like the goat, and things of that nature, it is not that unusual. We tend to think of a donkey as very similar to the size of a horse, but that is why these are called miniature donkeys. Mr. Keiling suggests to the Board that they may not need a variance because your definition is not precise. If you disagree with that, his client has attempted to secure other property. This piece is unique and it would be a hardship for him to acquire other property because there is nothing available. He indicated that Mr. Mazzone went to Mr. Jones and he will not sell anything. There is the fact that up and down the street there are non-household animals if you want to consider a llama and a goat a non-household animal. There are other large pets, such as dogs, and this is not something that is going to open up the floodgates. Mr. Mazzone has a sanitation program in effect. He has them effectively fenced, and looking at the photographs, the back yard looks like a park. That is where the animals are grazing now, and Mr. Keiling requests that the Board approve this. Mr. Thomas asked if the Jones' property was listed as the Mohican Tree Farm, and Mr. Mazzone replied that was correct. Mr. Mohr stated that he is listed as the owner on the 200 foot list.

Mr. Thomas asked Mr. Keiling if there was anything further, and Mr. Keiling replied no. Mr. Jim Sikkas asked if somewhere in the application if there was a pig involved also. Mr. Mazzone answered that they have a pot-bellied pig but David Diehl said that as long as the Mazzones

could treat him like a dog and bring him inside that it was not a violation of the Ordinances. Mr. Diehl approved the pig before the Mazzones brought him on the property. Mr. Mohr asked if a pig doesn't have hooves? Mr. Mazzone stated that he said the same to Mr. Diehl, who said that for outdoor animals or non-household animals, the definition is that they have hooves. Mr. Mazzone asked Mr. Diehl "what about the pot-bellied pig", and Mr. Diehl said he could have them. Mr. Thomas stated that Mr. Diehl did not find a definition of non-household animals regarding hooves. Mr. Mazzone said no and he asked Mr. Diehl and he said that was the definition. Mr. Mazzone asked if he could bring the miniature donkeys inside the house to make them household animals because there are people who have their miniature donkeys inside. Mr. Jim Sikkes asked if the pig lives in the house, and Mr. Mazzone stated that was correct and that he goes out like a dog to go to the bathroom.

Mr. Keiling said that in respect to Mr. Rodman's report regarding the farm fence, Mr. Mazzone does have an application in to Mr. Diehl for the fence. Mr. Keiling spoke to Mr. Diehl this afternoon and he indicated that he wanted the fence amended from a farm fence to just a fence and that will be done tomorrow. Mr. Mohr asked if it was their intention to electrify part of that fence, and Mr. Keiling replied no.

Mr. Repasky stated that the shed the Mazzones have the donkeys locked in at night is listed as an animal shed. Did the prior owner have animals in that shed or what did they use the shed for? Mr. Mazzone replied that he thinks they used it for a workshop. They had a dog but they didn't really have any animals in it. The Mazzones cleaned it out and cleaned it up. Mr. Mohr asked if both of the structures were in the back yard when the Mazzones purchased the home, and Mr. Mazzone replied yes. Mr. Mohr asked if the fence was there, and Mr. Mazzone said no, they added the fence. He said it looked as if there might have been a previous fence at one time. There were some posts that appeared as if they had been cut off, but there was no fence there until they added it. Mr. Mohr asked if the building you house the animals in at night and during the day is on the opposite side of your lot from Mrs. O'Flanagan. Mr. Mazzone said that was correct. Mr. S. Sikkes asked if they purchased the home about a year ago. Mr. Mazzone replied that was correct, last September. Mr. S. Sikkes asked when they first adopted the donkeys. Mr. Mazzone adopted the donkeys in March 2018, and they actually approached their neighbors when they first moved in and mentioned that they had plans to bring these donkeys in later that year. Neighbors did not express any concerns at that time. Mr. S. Sikkes asked if they were aware of the Ordinance. Mr. Mazzone was not aware of the Ordinance, and they had done some research on ordinances. They looked under pets and miniature donkeys, but this particular ordinance was under residential agriculture. This was unfamiliar to Mr. Mazzone as he is a first-time homeowner. He knows this doesn't excuse it as naivety doesn't excuse it, but he did try to do some research. He did not come across this when he was doing his searches online.

Mr. Jim Sikkes asked if Mr. Keiling was done with his testimony, and Mr. Keiling replied yes. Mr. Jim Sikkes asked if the Board members had some questions, and they did not. Mr. Jim Sikkes asked Mr. Thomas to open questions to the Public, which he did.

Mr. Thomas swore in Jacqueline Bolcar, 126 Gaisler Road, Blairstown, NJ. Ms. Bolcar supported the Mazzones, as many people in the area have all types of animals in this country-type area. Other animals on the road make noise nonstop and the donkeys are not very loud. Her son often visits the animals and uses it as a 4-H experience which is no longer offered in the schools. Ms. Bolcar was unaware of the ordinance and hopes that the ordinance becomes clearer to ensure this problem does not come up again.

There were no other Public comments, and Mr. Jim Sikkes closed to the Public and back to the Board.

Mr. Thomas summarized what has been presented to the Board and that the Board has the power to interpret the Ordinance. Mr. Thomas stated that, without having looked, he assumes Mr. Keiling is accurate in that there is no definition of non-household animals. There has been evidence that has been submitted and you can take into account some of the pictures of the animals. There are the two Ordinances and the one regulation from the Department of Agriculture. The Board can also authorize him to do more research and he will get back to them within one month.

Mr. Mohr asked if Block 201, Lot 4.21, the property immediately adjacent to Mazzones, opposite Mrs. O'Flanagan, does not show up in the 200 foot list on the map. Mr. Keiling stated his client advised him of that, but they served them anyway. Mr. Mohr asked if they did notice them and they did have the opportunity to appear, and Mr. Keiling confirmed this. Mr. Mazzone did want to notice this unlisted name as it was their neighbor. Mr. Mohr asked if there is a residential structure on the lot, and Mr. Keiling said yes. Mr. Mohr said that this structure and the structure on Lot 4.23 are not shown on the map. Mr. Keiling agreed, but there is a single-family residence on each side. Mr. Jim Sikkes asked if Mr. Mohr was asking if he wanted them to be shown. Mr. Mohr stated that there are 25 feet of setback on one side and there is 5.8 feet of setback on the other side which gives us some reference to lot line but it doesn't give us reference to structures. Are those lots conforming to the current setbacks for those houses or were those houses nonconforming? They might have a nonconforming side lot or a pre-existing condition. Mr. Thomas stated that he can certainly ask Mr. Mazzone for his opinion of the distance from his property to the O'Flanagan lot to the right on the survey and the Craig property to the left. Mr. Keiling asked Mr. Mazzone to gauge the distance from his property line to the O'Flanagan house. Mr. Mazzone stated that the house was a little bit closer than the 75-100 feet to the shed. Mrs. Murray said that while driving down the road that her impression was that the houses were very close to each other. Mr. Mazzone said that the screened-in porch was 75 feet and the house is probably closer. Mr. Jim Sikkes asked about the side yard setback and for one acre it is 25 feet at the times the homes were built. Mr. Thomas asked how close the Craig house and Mr. Mazzone said from the property line it was about 50 feet. Mr. Mohr summarized that it is approximately 50 feet from the Mazzone property line to the houses on either side and approximately 75 feet from your property line to the screened porch at Mrs. O'Flanagan's house. Mr. Mazzone confirmed. Mr. Jim Sikkes asked if there were any more questions from the Board and there were not.

Mr. Jim Sikkes stated that the issue the Board has to deal with is the way the definition is in the Ordinance – or the way it isn't. It makes it very difficult to make a decision based on what we have here. Mr. Sikkes explained the options the Board has available to them, which is to make a motion for approval or – and then Mr. Thomas outlined options.

Mr. Thomas said the Board has the testimony of Mr. Mazzone and the exhibits. There have been questions about the probative value of the animals. The applicant states their position which is what the Department of Agriculture defines as an animal unit and therefore our Ordinance doesn't apply to them. Mr. Thomas could also do more research on this topic.

Mr. Repasky asked a question about agricultural animals. Mr. Rodman's report refers to them as non-household animals, not non-agricultural animals. Mr. Repasky feels that if an animal is outside, it is a non-household animal; if it is inside, it is a household animal. Mr. Thomas stated that was Mr. Diehl's logic and is saying the same thing as Mr. Repasky. Mr. Mazzone interjected that the evidence submitted for the other towns is under non-household animals as they defined it. Mr. Repasky said the Board can't go by other town's ordinances. Mr. Mazzone said the town's ordinance is under Residential Agriculture, not under pets, so that is why they went with this definition. There is a pet section in the Ordinance that doesn't mention any of this.

Mr. Jim Sikkes said that the Board can have a motion or they can have Mr. Thomas go back and review a little bit further because of the way it is not defined properly. We can find out if it is acceptable what we are doing or we can deal with it at this time.

No motion was made, and Mr. Thomas will conduct more research on this topic to be presented to both Mr. Jim Sikkes and Mr. Keiling prior to the October 15, 2018 Land Use Board meeting. Mr. Thomas stated that the meeting will be carried without further notice to October 15, 2018 at 7:30 p.m.

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

Mrs. Van Valkenburg and Mrs. Waldron were recused on this application.

Mr. Thomas swore in both Charles and Molly Petty (not represented by an Attorney) who reside at 98 Mohican Road, Blairstown.

Mr. Petty explained that they wish to put on an addition to their existing house that would consist of a two-bay or two-door garage that would have a fourteen (14) foot ceiling to accommodate storage of two additional cars. Above that would be an attic. This addition would be 27 feet in length and would extend into the side yard zone. One corner of the house would end up with a 12 foot side yard versus the 25 foot code requirement.

Mr. Thomas asked if the attic would be used for any purpose other than storage, and Mr. Petty replied that it would not. Mr. Thomas asked if the garage would have any type of utilities, e.g. electric or water. Mr. Petty responded that there would be electric, but no water. Mr. Sikkes confirmed from Mr. Petty that the area would never be used for residential purposes.

Mr. Thomas questioned distance from the Pettys' home to the other side of the property on the right and why Mr. Petty doesn't erect the garage addition on that side which would not require a variance. Mr. Petty explained that the driveway is not very steep but going toward the front of the house is a very steep angle which would be very difficult to enter, thus not making it a good option.

Mr. J. Sikkes asked if anyone on the Board objects; there were none; and he opened to the Public for any objections. None were voiced.

Mr. Thomas summarized that the Applicants are seeking a side yard variance according to the requirement of this 25 foot grand-fathered provision of the lot. This is a C variance. Mr. S. Sikkes questioned where the water would go from drainage or runoff, and Mr. Petty responded that they will use the same leadered downspouts on the new garage. Mr. Thomas stated that the Board can approve the variance with the condition that leaders be connected to the existing drainage system. The other condition is that the garage will not be used for residential purposes.

Action: A motion was duly made by Mr. Keller, seconded by Mr. Repasky, to deem **LB#04-18 Petty**, Blk 803, Lot 2.06 Application for a Bulk Variance approved with conditions. Roll call vote: Keller, Mohr, Murray, Repasky, S. Sikkes, J. Sikkes, Mott, Stires, Talley – yes. Abstain – Van Valkenburg and Waldron. Absent – Green.

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

Mr. Thomas swore in Mr. Randolph Farley of 55A Primrose Road in Hardwick.

Mr. Farley presented background information on himself. He purchased 7 Main Street, Blairstown, and is seeking permission to continue using it as a three-family residence which is the current set up.

Mr. Thomas explained to Mr. Farley that what he is seeking under the Municipal Land Use Law is a Section 68 Interpretation. This means that Mr. Farley wants to establish that this is a preexisting, non-conforming use which could be accomplished by either a variance that was approved or to show that the structure was a preexisting, nonconforming use prior to zoning in the Township of Blairstown (approximately 1968).

There was discussion about separate water meters, electric meters, hard-wired smoke detectors, and separate entrances. Mr. Farley also answered questions from the Board about the apartment layout and common entrances. Mr. Farley receives one tax bill for 7 Main Street.

The house at 7 Main Street was built in 1920. The previous owner is still alive and Mr. Farley believes it had been owned for approximately 15-20 years.

Mr. Thomas explained that the following avenues are open to Mr. Farley to provide documentation:

- Have prior owner(s) testify that the property was a three-family prior to 1968 when zoning came into effect

- Research the deed for stating property is a three-family or for owner's names to contact
- Check with his title policy company who guarantee a sixty (60) year search

The Board tabled this Interpretation and carried it forward without further notice to the October 15, 2018 Land Use Board meeting at 7:30 p.m.

CORRESPONDENCE: Everyone received a copy of the Warren County Planning Department approval letter for Blair Academy, Block 906, Lot 13. This letter is for information and will be filed.

OTHER BUSINESS: None

NEW BUSINESS:

Block 506, Lot 8.04, 17.63 acres, 10A Polkville Road owned by Lothar J. Nonnenmacher Trustee

Mr. Joel McGreen, Blairstown Ag Advisory/Open Space Committees, addressed the Board in reference to the above property that has been submitted to Farmland Preservation. The property is under contract, has been surveyed, and during title search, the issue of a restriction for future subdivisions to require a major subdivision or lot line adjustment came to light. The State wants this restriction removed from the deed.

Mr. Thomas stated that this restriction was intended to prevent creeping subdivisions, but if this property goes into farmland preservation, there will be no subdivisions. The intent and purpose of that condition is no longer applicable. If the State/Farmland Preservation would be willing to accept a determination from the Board to that effect, the Board could consider that condition to be either null and void or satisfied. However, the deed restriction needs to be removed from the title, and the Land Use Board does not have that jurisdiction.

There was much discussion on who can and how to remove a restriction from a deed and the applicant / owner relationship to the property.

Ms. Katrina Campbell, County Attorney, is handling the matter for Joel McGreen/Ag Advisory Committee, and Mr. Thomas will call Ms. Campbell to see how to resolve.

The Board will reconvene on this issue.

PUBLIC PORTION:

VOUCHERS: Professional services rendered.

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

ADJOURNMENT:

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

Action: Upon a motion duly made by Mr. Mohr, seconded by Mr. Repasky, and unanimously carried, the meeting was adjourned at 9:41 pm.

Respectfully submitted,

Linda J. Grohs, Board Secretary