

**REGULAR MEETING**

**Lebanon Township Board of Adjustment  
Municipal Bldg 530 West Hill Road Glen Gardner, N.J.**

**March 11, 2009**

The Regular Meeting of the Lebanon Township Board of Adjustment was called to order at 7:34 pm by Chairman Bruce Terzuolo. Present were: Mr. Machauer, Mr. Kozlowski, Mr. MacQueen, Mr. Abuchowski, Mr. Nagie, 2<sup>nd</sup> Alternate Maurizio, Attorney Gallina, Planner Bolan and Engineer Risse. Also present: Zoning Officer John Flemming. **Excused:** Mr. Perry and Mr. Eberle.

Notice of this meeting was provided for in the "Annual Meeting Notice Schedule" adopted by this board on January 28, 2009, mailed to the Hunterdon Review, Hunterdon County Democrat, Express Times, Courier News, Star Ledger and posted on the bulletin board in the Municipal Building on March 4, 2009.

**PRESENTATION OF MINUTES:** February 25, 2009 Regular Meeting

Motion by Mr. Kozlowski and seconded by Mr. Abuchowski to approve the minutes with a minor correction. Unanimously approved.

**EXTENSION OF TIME:**

Robert Amerman Block #35 Lot #37  
5842 East Lake Road Antler Road RC  
Romulus, N.Y. 14541

**Requesting extension on Resolution Condition #7**

Mr. MacQueen excused himself since he is an adjoining property owner. Attorney John Thatcher was present to represent the applicant. Attorney Thatcher stated that his client Mr. Amerman after receiving approval from the board back in September, 2006, eventually had under contract Lisa Falcon, MD. In February 2008 Dr. Falcon came before the board for an Extension of Time in order to finalize her contract with the builder and secure building permits. Dr. Falcon was granted a 1 year Extension of Time which would expire on March 13, 2009. Since then the economy took a major turn for the worse. Dr. Falcon for financial reasons backed out of the contract. Dr. Falcon never got any building permits turning the 1 year Extension of Time. Attorney Thatcher went on to say that Mr. Amerman has now put the property back on the market for sale. Mr. Amerman is here this evening in hopes of getting an Extension of Time on Condition #7 which will expire in 2 days.

The board deliberated at length understanding the dilemma of the applicant, but would only consider granting an extension for 18 months and if the applicant was unable to have building permits obtained within that time they would have to come back to the board and explain why it is not completed. At that time the board would decide whether to grant another extension or have the applicant file a new application and start over. At the conclusion of the board's discussion, motion by Mr. Nagie and seconded by Mr. Kozlowski granted the applicant an Extension of Time for 18 months only.

**ROLL CALL** Yes: Mr. Machauer Mr. Nagie No: None  
Mr. Kozlowski Mr. Abuchowski  
Mr. Terzuolo Mr. Maurizio

**Attorney Gallina will prepare the Resolution to be placed agenda of March 25, 2009.** Mr. MacQueen returned to the board at this time.

**NEW BUSINESS:**

Susan Sarao Block #10 Lot #21  
301 Rocky Run Road Rocky Run Road R 1½  
Glen Gardner, N.J. 08826

**PUBLIC HEARING** D Variance for a commercial use in a residential zone

Attorney Al Rylak was present to represent the applicant. The applicant, Susan Sarao, Engineer/Planner Jim Chmielak and one adjoining property owner were also present. Attorney Gallina announced that all the notices are in order and the board can proceed with the public hearing.

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The following items were marked into evidence: **A1**-Taxes Paid, **A2**-Owner Certification, **A3**-Certified List of Property Owners, **A4**-Notice in Newspaper, **A5**-POD Slips, **A6**-Affadavit of Proof of Service, **and A7**-Notice to Property Owners.

Attorney Rylak started by suggesting to the board that they do a site inspection either individually or as a group. The board preferred doing the inspection with no more than 3 board members at one time. Attorney Rylak had the applicant Susan Sarao sworn in to give testimony. Attorney Rylak passed out to the board a booklet prepared by the applicant. This item was marked into evidence: **A8**-Booklet prepared by Susan Sarao dated March 2009. Ms. Sarao said that she has lived in the Township since July 2006. Her property consists of 1.9 acres on Rocky Run Road. Ms. Sarao reviewed for the board the booklet that was marked into evidence. The booklet includes pictures of her home, the building the puppies are kept in which includes pictures of the inside of the building. The outside around the building area shows the fenced in areas (paddocks) that the puppies can run and play. Ms. Sarao informed the board that she imports Jack Russell Terriers from Ireland. She receives twelve 10 week old puppies at a time, averaging every 2,3,4 weeks. In order to enter the US the puppies must pass US Custom requirements. They must be examined and certified by a qualified veterinarian that all the paperwork is in order. This is done by the Irish Department of Agriculture. Ms. Sarao noted that Ireland is a rabies free country. There is a customs broker to process the paperwork when the puppies arrive at Kennedy Airport and picked up by the applicant.

Ms. Sarao stated the puppies are with them on an average of 2-3 weeks before leaving for their new homes. They advertise through their website which is known as [www.IrishJacks.com](http://www.IrishJacks.com). Local people come to the property to pick up their puppy which averages 4-8 clients during the week; this is done by appointment only. They sell/ship to people around the country and around the world. Pictures of the puppies are put on the website for people to see. There is an application form/questionnaire for the prospective buyers to fill out and once they are approved, their reservation for a puppy is taken and they are then put on a waiting list. Ms. Sarao admitted that besides the puppies she has imported from Ireland which accounts for 90% of the puppies, she also breeds on occasion from her own pet stock. She has 6 Jack Russell dogs of her own. Attorney Rylak asked Ms. Sarao to explain to the board her consulting with the Hunterdon County Board of Health. Ms. Sarao informed the board that Jim Gallos, Principal Health Specialist and Mario Filippi, Chief Inspector from the Board of Health have both been to the property. Mr. Filippi came out first and informed Ms. Sarao what all she had to do to be in full compliance with all the county regulations. The County Board of Health gave Ms. Sarao a conditional approval. Ms. Sarao said that she will need a fire inspection but they need approval from the Board of Adjustment first.

The building which houses the puppies is shown in the booklet. There are four (4) stalls/indoor pens. Ms. Sarao stated that when they moved to Lebanon Township, the puppies stayed at a place she had in Tewksbury Township. The puppies stayed there until she had to move them to her property on Rocky Run Road. She then found out that she was operating a kennel, even though she did not think of it as a kennel. Ms. Sarao thought a kennel consisted of concrete and chain link. In New Jersey the law states if you breed, board or sell 6 or more dogs per year you are considered a kennel, then she knew it was a kennel. The Zoning Officer brought this to my attention. Ms. Sarao stated that she went to the County Board of Health and filed an application and then filed an application to come before this board. Ms. Sarao said if this board denies her application she will have to shut down her operation. Ms. Sarao noted she had to prepare a detailed plan for the County Board of Health.

Attorney Rylak asked Ms. Sarao how she disposes of the fecal material from the dogs. Ms. Sarao said she bags it up and puts it in with the garbage per the County of Board of Health. Attorney Rylak referred to a neighbor who agreed to testify on behalf of the applicant, Shenaz Patel who lives to the left of the applicant. The subject of having a site inspection was mentioned again by Attorney Rylak and Ms. Sarao said she welcomed anyone who wanted to come and see the property and her operation. Ms. Sarao stated you do not come to her home and think you are at a kennel, you are just at my home with pet dogs running around and when you go out to the building and there are litters of puppies. It is not like a business establishment, it's just my home.

Attorney Rylak noted that the applicant can receive up to 20 puppies at one time, Ms. Sarao agreed also said that she doesn't want puppies staying 3 weeks. Ms. Sarao said per the County Board of Health she could have because of the room she has, she could have a lot more dogs per square feet. Ms. Sarao said she would never think of having as many that would be allowed.

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At the conclusion of Ms. Sarao's testimony, Chairman Terzuolo asked the board if they had questions of the applicant. Mr. Nagie asked about her clientele. Mr. MacQueen asked how many puppies are on the premises at one time. Ms. Sarao stated a maximum on average of 12 puppies. Mr. MacQueen asked again the maximum number at one time. Ms. Sarao answered 20 puppies, plus her own 6 dogs. Mr. MacQueen questioned the comment regarding proposing a Site Plan. Attorney Rylak responded saying that they wanted to do the Use Variance first and if it is approved then come back with a Site Plan. This would be handled as a bifurcated application. Mr. MacQueen asked about noise with 26 dogs on a small amount of land 1.9 acres and wanted to know what is done to curb the noise. Ms. Sarao responded saying if the dogs are noisy they go out and quiet them down, if they continue, we put them in the building. Ms. Sarao stated that the dogs are generally quite. Mr. MacQueen asked Ms. Sarao about her breeding her own dogs. Ms. Sarao said she also will breed her own litters. Mr. Kozlowski questioned the number of dogs at one time on the property. Mr. Kozlowski asked about licensing the dogs. Ms. Glashoff interjected stating that dogs per the ordinance don't have to be licensed until the age of 7 months. Mr. Kozlowski asked about the Wirasnik property to her left. It was noted that the lot is vacant, but with the ordinance stating a distance of 500', it would take you right across into the next property. Mr. Maurizio referred to the aerial map (B3) with his question. Mr. Machauer questioned the number of puppies at one time and wanted to know if she had a continuous stream of puppies. Ms. Sarao said that she calls when she wants more puppies, they just don't show up. Mr. Machauer asked how many puppies does she get a year. Ms. Sarao about 200 puppies, or about 15 puppies per month on an average. Ms. Sarao said she founded the breed because people did not know about Irish Jack Russell Terriers before 10 years ago. Ms. Sarao said there is competition now with people in this country selling Irish Jacks. Ms. Sarao informed the board that she has a partner named Mark who helps her with the kennel. Mr. Machauer asked about the fencing and the height. Ms. Sarao said the fencing is 4' in height. Mr. Abuchowski asked how much do the puppies sell for. Ms. Sarao said \$1,650.00 each. He then asked if she expects to have this many puppies continue to be sold per year. Ms. Sarao said she hopes so.

Chairman Terzuolo asked if there were anymore questions from the board. There were none. The board's professionals did not have any questions at this time. Chairman Terzuolo asked Zoning Officer John Flemming if he had any questions. Mr. Flemming's response was yes. Mr. Flemming asked if the applicant does any advertising. Ms. Sarao answered yes. Ms. Sarao said besides her website she has just started advertising on T.V. and noted it was cheaper than advertising in Dog World Magazine. Mr. Flemming asked if she had a retail operation. Her answer was no. Mr. Flemming referred to Ms. Sarao's website stating that on the website it refers to retail. Attorney Gallina informed Mr. Flemming that at this time he can only ask questions of the testimony given. Mr. Flemming asked Ms. Sarao if she made any modifications to the property when she purchased it, specifically the accessory building. Ms. Sarao said that she has electric in the building and one an air-conditioner in a window. Mr. Flemming asked if she had any violations per the County Board of Health. Attorney Rylak interjected stating that the matter has been put on hold pending the approval of the Zoning Board and County Board of Health approval.

Chairman Terzuolo opened the hearing to the public for questions of the applicant. Dan Wirasnik asked Ms. Sarao if she had inquired about purchasing the property (vacant lot) next door to her. Ms. Sarao said she didn't know there was a vacant lot next door to her.

Just before having a recess, Mr. Flemming asked to address the board. Mr. Flemming stated that there had been a Gun Shop/Camping Supply Store down on the Rudl Fence property on Route 31. The store has been vacant for awhile and now someone would like to open just a Gun Shop. Mr. Flemming wanted to know if they would have to come before the board for approval. Mr. Flemming was informed no. The other questions that Mr. Flemming had, he was informed he would need to contact either Attorney Gallina or Planner Bolan for their input. Chairman Terzuolo announced the board will take a recess at this time 9:00 p.m... When the board reconvened at 9:15 p.m. Attorney Rylak asked to have his next witness sworn in. Ms. Shenaz Patel was sworn in to give testimony. Ms. Patel said she is an adjoining property owner to Ms. Sarao and did not have a problem with Ms. Sarao's operation of importing and selling puppies. She stated that noise was not an issue. Ms. Patel stated that Ms. Sarao keeps the property very clean and well maintained. At the conclusion of Ms. Patel testimony, Mr. Maurizio had a question regarding barking. There were no other questions by the board and when opened to the public, there were no questions.

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Attorney Rylak asked again to have the board do a site inspection. Attorney Rylak felt it was important for the board to see the property. It was decided if the board members wanted to walk the property they would call ahead for a time and there could not be more than 3 members at any one time. Attorney Rylak stated that for the next meeting he will have the engineer give testimony and also have Ms. Sarao back to give testimony on questions that were asked that she needed to get the answers too and be able to address any concerns of the board.

Ms. Glashoff was asked for a date for a continuance. Also the board asked for an extension of time. Ms. Glashoff offered April 22<sup>nd</sup> to continue the public hearing. Attorney Rylak agreed and will send a letter to extend the time indefinitely. Attorney Gallina asked to be cc on the letter. Mr. Flemming noted there is an open violation with the court. Chairman Terzuolo took note for the record.

**PRESENTATION OF BILLS:**

a. John Gallina, Esq.	\$287.50 - Attend Bd Mtg 2/25/2009
b. Michael Bolan, PP	\$260.00 – Attend Mtg 1/28/2009
	\$ 71.00 - Escrow <b>(Edwards)</b>
	\$113.60 - Escrow <b>(Sarao)</b>
	\$596.40 – Escrow <b>(Allen)</b>
c. Court Stenographer	\$200.00 - Attend Mtg 3/11/2009
	<b>Total: \$1,528.50</b>

Motion by Mr. MacQueen and seconded by Mr. Nagie to approve the bills as presented.  
Unanimously approved.

**ITEM FOR DISCUSSION:**

- a. Applications Approved & Denied 2008 - Planner Bolan

Planner Bolan will prepare a report to present to the board at an upcoming meeting.

Being no further business to come before the board, nor comments from the public, motion by Mr. Abuchowski and seconded by Mr. Maurizio to adjourn the meeting at 9:35 p.m.  
Unanimously approved.

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**CHAIRMAN BRUCE TERZUOLO**

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**GAIL W. GLASHOFF, BOARD SECRETARY**