

REGULAR MEETING

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

June 27, 2012

The Regular Meeting of the Lebanon Township Board of Adjustment was called to order by Board Secretary Gail Glashoff. Present were: Mr. MacQueen, Mr. Eberle, 1st Alternate Maurizio, 2nd Alternate Machauer, Attorney Gallina and Planner Bolan.

Notice of this meeting was published in the "Annual Meeting Notice Schedule" adopted by this board on January 25, 2012, faxed to the Hunterdon Review, Hunterdon County Democrat, Express Times, Courier News, Star Ledger and posted on the bulletin board in the Municipal Building on June 18, 2012.

At this time in the absence of the Chairman and Vice Chairman Ms. Glashoff asked for a motion to nominate a Chairman for this evening. Motion by Mr. Eberle and seconded by Mr. Maurizio to appoint Mr. MacQueen as Chairman. Being no further nominations, motion by Mr. Eberle and seconded by Mr. Maurizio to close the nominations. Unanimously approved.

Mr. MacQueen took over the meeting at this time.

PRESENTATION OF MINUTES: Regular Meeting May 23, 2012

Motion by Mr. Maurizio and seconded by Mr. Eberle to approve the minutes as presented. Approved by those eligible to vote with Mr. Machauer abstaining.

RESOLUTIONS:

Mark & Susan Disko Block #37 Lot 7
Interpretation Woodglen Road R 1½

Motion by Mr. Maurizio and seconded by Mr. Eberle to approve the Resolution for Mark & Susan Disko as presented.

ROLL CALL Yes: Mr. Maurizio Mr. MacQueen Mr. Eberle
Abstain: Mr. Machauer
Absent: Mr. Terzuolo Mr. Nagie Mr. Kozlowski Mr. Perry Mr. Abuchowski

Shawn & Holly Shawn Smith Block #58 Lot #2
Bulk Variances with conditions Musconetcong River Road RC

Motion by Mr. Maurizio and seconded by Mr. Eberle to approve the Resolution for Shawn & Holly Smith for Bulk Variances with conditions.

ROLL CALL Yes: Mr. Maurizio Mr. MacQueen Mr. Eberle
Abstain: Mr. Machauer
Absent: Mr. Terzuolo Mr. Nagie Mr. Kozlowski Mr. Perry Mr. Abuchowski

New Cingular Wireless Block #24 Lot #37
Conditional Use/Site Plan/Variences Wilde Lane RC
with conditions

Motion by Mr. Eberle and seconded by Mr. MacQueen to approve the Resolution for New Cingular Wireless for Conditional Use/Site Plan/Variance with conditions.

ROLL CALL Yes: Mr. MacQueen Mr. Eberle
Abstain: Mr. Machauer
Absent: Mr. Terzuolo Mr. Nagie Mr. Kozlowski Mr. Perry Mr. Abuchowski

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NEW BUSINESS:

Frank Cerami
22 Lavern St.
Sayreville, N.J. 08872

Block #35 Lot #67
Red Mill Road

PUBLIC HEARING Section 400-4 Definitions Accessory Structure without
a principal use

Mr. Cerami was present along with his surveyor Eldon Allen. Attorney Gallina announced that all the notices are in order and the board can proceed with the public hearing. The following was marked into evidence: **A1**-Affavdit of Proof of Service, **A2**-Certified List of Property Owners and Utilities, **A3**-POD Slips, **A4**-Notice to Property Owners, **A5**-Notice in Newspaper, **A6**-Taxes Paid, **A7**-Hunterdon County PB Letter dated June 14, 2012, **A8**-Hunterdon County Soil Conservation Letter dated June 12, 2012.

Mr. Cerami and Eldon Allen were sworn in at this time to give testimony. Mr. Cerami informed the board that he put up the building without zoning or construction permits and didn't realize that he needed them. Mr. Cerami said he has been coming up to Lebanon Township for many years and awhile ago purchased the property over on Red Mill Road from Penny Gagne. He uses the building for storage of his tools and equipment. Attorney Gallina said from the survey prepared by Eldon Allen, the property is over 15 acres and there is no house on the property. Mr. Cerami said someday he would like to put a house on the property. Attorney Gallina asked what the dimensions of the shed. Mr. Cerami said 10'x 26', the building is wood with a metal roof. Attorney Gallina asked if Mr. Cerami has applied for farmland assessment. Mr. Cerami said yes that the Woodland Management person said everything was approved. Ms. Glashoff said Mr. Cerami just recently filed the paperwork with the Tax Assessor for the farmland assessment. Attorney Gallina said it takes a total of 3 years. Chairman MacQueen asked about the height of the building. It was noted that if the building exceeds 15' in height it will need a variance. Mr. Cerami said he thought the height was under 15'. Attorney Gallina said if it does exceed the height required, then an additional variance will be required. Mr. Cerami said he was pretty sure that it did not exceed the 15'.

During the discussion, the following items were marked into evidence: **A10**-Survey prepared by Eldon Allen dated 7, 2012, **A11**-Copy of the Mediation Settlement Agreement dated July 11, 2007, **A12**-Copy of the Conservation Restriction Easement date September 19, 2008. Mr. Allen described the Conservation Easement for the property and how it is laid out referring to the survey he prepared. Attorney Gallina said to clarify on the Lot Development Plan, the house and pool shown on the plan are proposed and are not presently on the property. Mr. Cerami said that was correct. The following was marked into evidence: **A13**-Lot Development Plan prepared by Engineer David Fantina, Chairman MacQueen per the green line marked on the survey asked if the green line had been adjusted because of the location of the shed. Mr. Allen said yes and explained that when he did the survey, the shed was located over the line. Mr. Allen noted that they could modify the line as long as they did not exceed 1 acre which they did not. Chairman MacQueen asked if it looks like the rear pin is on the building. Mr. Allen said it just clears the building that he made sure with the calculations. Chairman MacQueen said, there is no disturbance in the back corner of the building that there are only trees and no disturbance up to the building. Mr. Allen said there is no disturbance up to the gravel base. Chairman MacQueen noted there were cement footings. Mr. Allen said the cement footings are underneath the building. Chairman MacQueen asked if they had any additional evidence to share with the board. Ms. Glashoff asked about the photos that are required by the Checklist. Attorney Gallina had them marked as **A14**-Set of 4 Photos of the Property.

Mr. Maurizio asked about the evergreen trees that have been planted. Chairman MacQueen asked if the shed was delivered in one piece. Mr. Cerami said yes. Mr. Cerami noted that the side walls are only 6'2". Mr. Eberle asked if the door was 6'. Chairman MacQueen questioned the 15' height of the building and Mr. Eberle said you need to rethink the 15' in height for the building since it looks higher than 15'. Mr. Eberle asked how high are the walls on the other section of the building. Mr. Cerami said it is a pitched roof. Mr. Maurizio asked about the height of the edge of the roof where it ends is referring to the height of the roof. Mr. Cerami said 6'. Attorney Gallina said if the height of the roof is over 15' then the applicant will need to come back for a height variance. The board discussed this issue at length. Mr. Eberle asked how the applicant plans on keeping up the farm assessment value and generating income. Mr. Cerami said with

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firewood income, planting evergreen trees and apple trees. Attorney Gallina noted it is \$500.00 for the first 5 acres. It was noted that after the first 5 acres, it is \$10.00 per acre you need for income. Mr. Maurizio asked if the forester has been to the property and marked trees to be removed. Mr. Cerami said the forester has told him what he can do. Mr. Eberle asked if you can harvest trees within the wetlands or do you have to stay out of the wetlands. Mr. Cerami said you can do certain ones meaning the age of the trees. Mr. Cerami said you can't take any machinery into the wetland area. It would all have to be done by hand. Chairman MacQueen asked how do you get around the stream to the other side of the property. Mr. Cerami said it is a seasonal stream. Chairman MacQueen asked if there was any other way to access the property other than Red Mill Road. Mr. Cerami said he can access off of Lanning Lane but you would be crossing over someone else's property. Mr. Eberle asked what the percentage of trees were marked up in the red and green area to be harvested and were 50% of the trees marked in the red area. Mr. Cerami said the marked trees are all over the place and during that storm 6 or 7 trees came down that he cut up for firewood. Chairman MacQueen informed Mr. Cerami unless he has legal access off of Lanning Lane to his property, he is not going to be able to use it.

Chairman MacQueen asked if the board had any additional questions of the applicant. Mr. Machauer asked Mr. Cerami how often he comes up to the property. Mr. Cerami said he is a fireman and works 24 hour shifts and he is able to get up to the property at least 2 days per week. Mr. Machauer asked about the equipment and the inconvenience it he didn't have the shed. Mr. Cerami said it would be a hardship. Mr. Machauer said having the shed is a necessary item to be able to house all of your equipment. Mr. Cerami said yes. Mr. Maurizio said looking at the plan, it shows a proposed dwelling and asked if the applicant had a time line. Mr. Cerami said he would be able to retire in 7 years and then would like to build a home. Mr. Eberle noted there were no pictures of the interior of the shed. Planner Bolan said the reason for asking about the farmland assessment, if it did have farmland assessment then a variance would not be needed. With farm assessment you do not have to have a house on the property. The building is the principal use. This building would not become legal until the applicant has farmland assessment.

Chairman MacQueen said if this is approved the applicant will need to comply with all the building codes. If the Building Department requires you to dig up your footings, you would have to move the building. Chairman MacQueen asked Mr. Cerami if he would be willing to put the building back within the green line by moving it the 5-6'. Mr. Allen said it was 9'. Mr. Cerami said if he has too he will have it moved the 9', if the Construction Department has him move the building to see the footings. The board discussed this issue at length. Chairman MacQueen opened the hearing to the public for questions of the witness. The following people had questions: Mr. Russ Snyder, Red Mill Road, William Yurgel, Lanning Lane and Robin Meyh also of Lanning Lane. Mr. Snyder asked if Mr. Cerami hunts on the property. Mr. Cerami said yes on occasion with a bow & arrow. Mr. Snyder asked Mr. Cerami if he knew that you have to be 450' from any house. There is only 50' in the center where you can meet the code of 450' all the way around the property. Ms. Meyh expressed the same concern with the hunting and whether Mr. Cerami had egress off of Lanning Lane. At the conclusion of the public questions, Chairman MacQueen asked if there were any statements or comments from the public. There were none. Motion by Mr. Eberle and seconded by Mr. Maurizio to close the public portion of the hearing. Unanimously approved.

The board deliberated at this time. At the conclusion of their discussion, motion by Mr. Eberle and seconded by Mr. Maurizio to grant the C2 Variance with the following conditions:

- a. Applicant to comply with all outside agencies having jurisdiction
- b. Applicant apply forthwith for building permits.
- c. Applicant to submit the missing pages 2-9 of the conservation easement Exhibit A12.

Ms. Glashoff asked about the building height. Chairman MacQueen said that would be handled by the Building Department. If they find the height exceeds 15' the applicant will need to apply for a height variance.

ROLL CALL

Yes: Mr. Machauer
Mr. Maurizio
Mr. MacQueen
Mr. Eberle

Absent: Mr. Terzuolo
Mr. Abuchowski
Mr. Kozlowski
Mr. Perry
Mr. Nagie

Attorney Gallina will prepare the Resolution to be on the next Agenda for July 25, 2012

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PRESENTATION OF BILLS:

- | | |
|--------------------------|------------------------------------------------------------------------------|
| a. John Gallina, Esq. | \$ 218.75 – Escrow - Prepare Resolution (Smith) |
| | \$ 281.25 – Escrow – Review application/prepare
Resolution (Disko) |
| | \$ 250.00 - Attend ZBA Meeting 5/23/2012 |
| b. Court Stenographer | \$ 250.00 - Attend ZBA Meeting 6/27/2012 |
| Total: \$1,000.00 | |

Ms. Glashoff said there were additional bills from the Addendum for Attorney Gallina and Planner Bolan which totaled **\$4,862.20** bringing the grand total to **\$5,862.20**. Motion by Mr. Eberle and seconded by Mr. Maurizio to approve the bills as amended. Unanimously approved.

CORRESPONDENCE:

- a. Law of the Land Articles (4)
- b. Zoning Practice June 2012
- c. Law Bulletin June 2012

Being no further business to come before the board, nor comments from the public, motion by Mr. Eberle and seconded by Mr. Maurizio to adjourn the meeting at 8:45 p.m. Unanimously approved.

CHAIRMAN GARY MACQUEEN

GAIL W. GLASHOFF, BOARD SECRETARY