

## REGULAR MEETING

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

July 27, 2011

The Regular Meeting of the Lebanon Township Board of Adjustment was called to order 7:33 p.m. by Chairman Bruce Terzuolo. Present were: Mr. Kozlowski, Mr. MacQueen, 1<sup>st</sup> Alternate Maurizio, 2<sup>nd</sup> Alternate Machauer and Attorney Gallina. **Excused:** Mr. Abuchowski & Mr. Eberle.

This meeting was notice in the "Annual Meeting Notice Schedule" adopted by this board on February 23, 2011, 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 July 20, 2011.

**PRESENTATION OF MINUTES:** June 22, 2011 Regular Meeting

Motion by Mr. Maurizio and seconded by Mr. Kozlowski to approve the minutes with minor corrections. Unanimously approved.

June 22, 2011 Executive Session

Motion by Mr. MacQueen and seconded by Mr. Kozlowski to approve the Executive Session minutes as presented. Unanimously approved.

### RESOLUTION:

Jersey Properties LLC  
Bulk Variances with conditions

Block #18 Lot #45  
Mt. Grove Road R 1½

Motion by Mr. MacQueen and seconded Mr. Kozlowski to approve the resolution for Bulk Variances with conditions as corrected.

### ROLL CALL

**Yes:** Mr. Kozlowski  
Mr. MacQueen  
Mr. Maurizio

**Abstain:** Mr. Terzuolo  
Mr. Machauer

**Absent:** Mr. Eberle  
Mr. Abuchowski

### REQUEST FOR EXTENSION OF TIME ON A CONDITION IN RESOLUTION:

Dominick Tranquilli  
Site Plan with conditions

Block #41 Lot #4  
Route 513 I5

### Requesting an extension of time on Resolution Condition #8

Attorney Gallina had Mr. Tranquilli sworn in at this time. Chairman Terzuolo asked Mr. Tranquilli why he was before the board this evening. Mr. Tranquilli said he is asking for an extension of time on Condition #8. The equipment he purchased took 90 days to receive and he needs an additional 3-4 months to complete the project. Mr. Tranquilli said he hired a contractor Mr. Lutz to assemble everything. This is a big undertaking to install all the equipment and then he will be going for his permits for electrical and he wants to have the Board Engineer come out and inspect everything.

Mr. Tranquilli said they haven't done a lot of sandblasting lately. Also, work has been very slow. Chairman Terzuolo noted Mr. Tranquilli's problems and concerns, but there are a couple of things that are working against him; first, is a major condition in the Resolution and we have an ordinance that states you have to apply prior to a deadline if you want an extension. Attorney Gallina interjected stating that the ordinance applies to the time to get your permits and completion. It doesn't apply to time periods on conditions. Chairman Terzuolo said not according to Planner Bolan. Attorney Gallina said he spoke to Planner Bolan today. Attorney Gallina said it only applies to the time period of getting your permits and to getting the job done. This condition is specific to one item not the entire site plan. Attorney Gallina quoted the condition regarding the sandblasting. Attorney Gallina said the time period has passed. Attorney Gallina said considering this is a significant condition, notice needs to be given to the adjoining property owners and noticed in the newspaper.

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Chairman Terzuolo asked if the board had any questions. Mr. Machauer asked Mr. Tranquilli if he had a delay with the delivery of the equipment or the ability to put it together. Mr. Tranquilli said yes it took him 90 days to get the equipment. Mr. Machauer asked Mr. Tranquilli how long did he know that he would go pass the deadline. Mr. Tranquilli said about a month ago. Mr. Tranquilli said he pushed the vendors as fast as he could and told them he had a time frame of getting this done. Mr. Machauer asked if his attorney had advised him as to the ramification of not meeting the deadline and having to notice for this in the proper manner. Mr. Tranquilli said yes his attorney had told him and the equipment showed up 80 days later. Mr. Machauer said that someone has dropped the ball and now Mr. Tranquilli is here and it is a problem. Attorney Gallina noted if the board decides that this is a significant condition, then notice will have to be given. Chairman Terzuolo asked the board their feelings on this issue. Mr. Maurizio said he is in agreement with Mr. MacQueen and Chairman Terzuolo that this condition is significant and needs to be noticed. Mr. Kozlowski also agreed it had to be noticed and remembered that these conditions had been discussed at length. Attorney Gallina stated this would have to be done by noticing the property owners within 200' and putting a notice in the newspaper stating that the applicant is applying to the board for an amendment to certain conditions in the Resolution citing what those conditions are.

Mr. Kozlowski asked Mr. Tranquilli how much time he was looking for with this extension. Mr. Tranquilli said he would need at least 3 to 4 more months. Mr. Tranquilli said he has the equipment and he has to buy some electrical panels. Mr. Tranquilli said he contacted Ms. Glashoff to get on the agenda for an extension. He then found out that Attorney Gallina was on vacation and by the time he knew I had to put it in the newspaper it was too late. Mr. Tranquilli said he can consolidate the blasting into four days. Mr. MacQueen asked what is the board's other option for him to comply now. Mr. MacQueen said right now Mr. Tranquilli has not fulfilled his obligation to the Resolution and wanted to know why the Zoning Officer has not gone to the site. Ms. Glashoff interjected stating that the Zoning Officer was going to wait until after tonight's meeting to see what the board was going to do. Attorney Gallina said the board does not have jurisdiction to act on this request tonight.

Chairman Terzuolo asked if we need a motion. Attorney Gallina said yes stating the motion would be "that the board does not have jurisdiction to hear the request because it is asking for an amendment to a significant condition and no notice has been given and the board can not jurisdictionally grant the request". Ms. Glashoff asked if Mr. Tranquilli needs to bring his attorney next time. Attorney Gallina said no since the Site Plan application is in his name. Chairman Terzuolo asked for a motion at this time. Motion by Mr. Kozlowski and seconded by Mr. Maurizio to deny the request because the board does not have jurisdiction to grant an amendment to a significant condition in the resolution since notice to the property owners and notice in the newspaper was not given.

<b>ROLL CALL</b>	<b>Yes:</b> Mr. Kozlowski Mr. Maurizio Mr. MacQueen Mr. Machauer Mr. Terzuolo	<b>Absent:</b> Mr. Abuchowski Mr. Eberle Mr. Nagie Mr. Perry
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**Attorney Gallina will prepare a Resolution to be on the agenda for the next regular meeting of the board on August 24, 2011.**

**PRESENTATION OF BILLS:**

a. John Gallina, Esq.	\$230.00 – Attend Meeting 6/22/2011 \$287.50 – Litigation (Edwards) \$373.75 - <b>Escrow (Jersey Properties)</b> \$115.00 - <b>Escrow (Garden Solar)</b> \$143.75 - <b>Escrow (Transtar/Tranquilli)</b>
b. Court Stenographer	\$200.00 – Attend Meeting 7/27/2011
c. Hunterdon Cty P/Z Lunch/Seminar	\$ 25.00 - Gail Glashoff, Bd Secretary
	<b>Total: \$1,375.00</b>

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

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**CORRESPONDENCE:**

- a. Ltr/Attorney Shurts – Jersey Properties
- b. Ltr/Attorney Gallina – Transtar (Dominick Tranquilli
- c. Ltr/Neil Grossman – Resolution Condition #8 Transtar
- d. Law Bulletin – June 2011 & July 2011

**OPEN TO THE PUBLIC**

Mr. Grossman asked to speak to the board regarding Transtar. Mr. Grossman wanted to know what is going on in this Township. We are relying upon this board, we had the public hearing and the board had that specific condition because there was an illegal structure that was on the property and the board put in as a condition so that the Zoning Officer would have some teeth when it came to enforcing what is going on with this property. Mr. Grossman said he doesn't understand why Attorney Gallina can't advise the board to tell the enforcement officer if an applicant does not comply with one of their conditions in the Resolution. Attorney Gallina said there is an ordinance regarding that but this board does not have any enforcement authority. Mr. Grossman wanted to know what is his remedy when the zoning officer is refusing to enforce a condition of this board. Attorney Gallina told Mr. Grossman he could go to the Township Committee. Mr. Grossman said they are relying on this board. Attorney Gallina said this board has no enforcement authority. Attorney Gallina said if Mr. Grossman felt the Zoning Officer is not doing his job, he can go to the Township Committee. Mr. MacQueen said the Zoning Officer works for the Township Committee not the board. Mr. Grossman asked when we have the public hearing will he be able to bring witnesses. Attorney Gallina said yes.

Mr. Grossman asked would the same board members that voted on the application be the same ones to vote on this purposed amendment or would everyone on the board be able to vote. Attorney Gallina said he would check into this.

Ms. Wolfe asked to address the board. Ms. Wolfe said for the 14 years she has lived on her property, she had been deprived of enjoyment and use of her property by one individual and it is not any of the other individuals that have business along Route 513. It is just one individual.

Being no further business to come before the board, nor comments from the public, motion by Mr. MacQueen and seconded by Mr. Kozlowski to adjourn the meeting at 8:08 p.m. Unanimously approved.

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**CHAIRMAN BRUCE TERZUOLO**

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**GAIL W. GLASHOFF, BOARD SECRETARY**