

REGULAR MEETING

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

September 26, 2012

The Regular Meeting of the Lebanon Township Board of Adjustment was called to order at 7:30 p.m. by Ms. Glashoff. Present were: Mr. Kozlowski, Mr. MacQueen, Mr. Perry, Mr. Nagie, 1st Alternate Maurizio, Attorney Gallina and Planner Bolan. **Excused:** Mr. Terzuolo, Mr. Abuchowski, Mr. Eberle and 2nd Alternate Machauer.

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 September 19, 2012.

In the absence of the Chairman and Vice Chairman, Ms. Glashoff asked for nominations for Chairman at this time. Motion by Mr. Nagie and seconded by Mr. Maurizio to nominate Mr. MacQueen as Chairman for this evening. Being no further nominations, motion by Mr. Perry and seconded by Mr. Nagie to close the nominations. Unanimously approved. Congratulation to Mr. MacQueen.

PRESENTATION OF MINUTES: Regular Meeting August 22, 2012

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

Executive Session August 22, 2012

Motion by Mr. Kozlowski and seconded by Mr. Perry to approve the minutes as presented. Unanimously approved.

RESOLUTION:

a. Kathryn Koch Block #23 Lot #4
Bulk Variances with conditions off Raritan River Road R3

Motion by Mr. Kozlowski and seconded by Mr. Perry to approve the resolution of Kathryn Koch for Bulk Variances and conditions.

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

NEW BUSINESS:

Tod Harris Block #60 Lot #14
7 Butler Park Road Butler Park Road R 1½
Washington, N.J. 07882

PUBLIC HEARING Section 400 4:1 Schedule I Bulk Requirements
for Setbacks – Front, Rear and Both Side yards

Attorney Douglas Orr was present and informed the board he will be representing the applicant Tod Harris this evening. Attorney Gallina announced that all the notices are in order and the board can proceed with the public hearing. The following items were marked into evidence: **A1-** Zoning Permit, **A2-** Taxes Paid, **A3-** Notice to the Property Owners, **A4-** Affidavit of Proof of Service, **A5-** POD Slips, **A6-** Notice in Newspaper, **A7-** Certified List of Property Owners and Utilities, **A8-** Letter from Hunterdon County Planning Board dated 5/19/12, **A9-** Letter from Hunterdon County Soil Conservation District dated 4/4/12.

Tod Harris was sworn in to give testimony. Mr. Harris said he lives on 7 Butler Park Road which is a private single lane dirt road. It is a small community of under sized lots which pre-dates the zoning ordinances of 1969. Mr. Harris said they purchased the property in 1996. The lot consists of .258 acres and is the last house on the left just before the bottom of the hill. The following was marked into evidence: **A10-** Survey prepared by Jess Symonds, Engr. of Biggs Engrs. dated July 28, 2010 with latest revision of September 12, 2012, **A11-** 7 photos of the property. Mr. Harris reviewed for the board the photos that were marked into evidence. Mr. Harris said the large building is 44 x 14 and the small building is 10 x 12. Attorney Orr asked

Lebanon Township Board of Adjustment
September 26, 2012
Page 2

Mr. Harris to explain to the board the reason for his application. Mr. Harris said when they purchased the house back in 1996 there was a small shed and the house was approximately 1200 sq. feet. They put an addition on the house back in 2005 and now the house is approximately 1800 sq. feet. There is no basement, only a crawl space about 3' in height. The original shed was in very poor condition and Mr. Harris said he removed it and put up a larger shed which he uses for storage, his hobby and his working trade. The second shed was installed in 2008. Attorney Orr asked Mr. Harris to tell the board about the canoes. Mr. Harris said he likes to build canoes and has been doing it for several years. Attorney Orr asked Mr. Harris to tell the board about the wood working that is done in the large building. Mr. Harris said when they were putting the addition on the house; he built all the kitchen cabinets and did all the wood working from within the large building. Also built furniture in the building.

Attorney Orr asked Mr. Harris what he did for a living. Mr. Harris said he is a Heavy Construction Inspector for highway construction out of Clifton, N.J. Attorney Orr asked Mr. Harris if there was any place on the property that he could put these buildings and have them conform to the setback requirements. Mr. Harris said no, all the lots are too small and can't comply with the zoning. Mr. Harris said he found out the zoning when he went to put the addition on his house. He said the Zoning Officer had a big hand in how he could design the house. Attorney Orr referred to the memo from Zoning Officer John Flemming dated July 26, 2010. Mr. Harris said because of his issues and the lot sizes in his neighborhood, Mr. Flemming was going to go to the Planning Board about rezoning the area to R15 from R1½. Everyone else on the road has the same problems because of the lot sizes. The memo was marked into evidence: A12-Memo from Zoning Officer John Flemming to the Planning Board dated July 28, 2010 re: rezoning. Attorney Orr asked Mr. Harris about the DEP property that adjoins his property. Mr. Harris said the property is vacant; the DEP has it mowed twice a year. People use the property for fishing. Mr. Harris said the DEP property abuts his property on two sides with the balance of the DEP property borders along Mowder Hill Road and runs along the Musconetcong River. The DEP property is approximately 14 acres. Attorney Orr asked Mr. Harris if any of the properties in the area had accessory structures on them. Mr. Harris said several of them. Attorney Orr asked Mr. Harris to tell the board which properties on his road have accessory structures. Mr. Harris named the properties that have accessory structures along Butler Park Road and Mowder Road. At the conclusion of the applicant's testimony, Chairman MacQueen asked if the board had questions of the applicant.

Mr. Maurizio asked if it would make the applicant's life difficult if he didn't have the ability to have these sheds. Mr. Harris said without the sheds he has no place to store anything. He doesn't have a garage or any storage space in his house. Mr. Kozlowski asked if he was aware of any setback issues with either shed. Mr. Harris said no. Mr. Kozlowski asked who the Zoning Officer was back in 1996 when he put up the first shed. Mr. Harris didn't remember. Mr. Kozlowski asked if the Zoning Officer back then told him that he had a setback issue. Mr. Harris said no and he put up the second shed in 2008 and was not aware of any setback issues then either. Mr. Kozlowski asked when did the setback issues arise. Mr. Harris said a former neighbor that he had problems with contacted the Zoning Officer regarding the sheds. Mr. Perry asked if there had been any structure in the location of the existing shed. Mr. Harris said no. Mr. Perry asked about the walkway from the house to the large shed. Mr. Harris said the walkway consists of pavers.

Mr. Nagie asked when he built the small shed. Mr. Harris said it is a prefab shed which he got in 2008. Mr. Nagie asked Mr. Harris if he wasn't aware that we have ordinances and also having to get permits. Mr. Harris said he didn't know he needed zoning and permits. Mr. Nagie said every town in the state requires zoning and permits for any buildings etc. Mr. Nagie asked if anyone told him his building was too close to the road. Mr. Harris said Mr. Flemming had mentioned it. Attorney Gallina noted that ignorance is no excuse but that is why he is here now. Mr. Nagie said doing something wrong and then coming to the board asking forgiveness. Attorney Gallina went through the criteria for getting variance relief and said this is what the applicant has to convince the board is that he has a hardship for why he needs to the variance. Chairman MacQueen asked Mr. Harris if he got a permit for the woodstove since he has a smoke stack on the roof of the large building. Mr. Harris said no, he didn't get a permit and it is not a wood stove but a propane furnace. Mr. Harris said he does woodworking projects in the building. Attorney Gallina asked if the house is heated with propane. Mr. Harris said yes. Chairman MacQueen asked Mr. Harris for the date that he received the notice from Mr. Flemming. Mr. Harris said 2009. Chairman MacQueen asked if there was any place else on the property other than next to the road to locate the smaller shed. Mr. Harris wanted the shed close to the road since he has his motorcycles in the shed. Chairman MacQueen asked how close is either building to your neighbors. Mr. Harris said the

Lebanon Township Board of Adjustment
September 26, 2012
Page 3

large building is about 25' to the neighbors house. Chairman MacQueen said the small structure is per the survey 5.9' from the ROW. Planner Bolan asked if there was a zoning permit for the large shed that was installed in 1996. Mr. Harris said no. Planner Bolan asked if there was a zoning permit for the small shed in 2008. Mr. Harris said no. Planner Bolan referred to the original shed that was on the property back when the applicant purchased the property and asked where it was located in location to the house. Mr. Harris by the western portion of the property near the center of the lot. Attorney Gallina said the shed was in the west-central portion of the property near the western boundary. Planner Bolan asked why the sheds were put in these locations. Mr. Harris said at the time it seemed like the most logical place to put them. Mr. Harris said the small shed was put where a parking area had been and for the convenience of the motorcycles.

Chairman MacQueen opened the hearing to the public for questions of the applicant on testimony given. Ms. Nancy Darois of 4 Butler Park Road. Ms. Darois began to give testimony and Chairman MacQueen informed her that she will have the opportunity to give testimony, but now only questions of testimony that was given. There were no questions of the applicant. Attorney Orr asked to redirect. Request was granted. Attorney Orr asked Mr. Harris if he would be willing to move the small shed further into the property and would he be willing to get building permits for the sheds. Mr. Harris said yes.

Mr. Maurizio said it is obvious that the setbacks are an issue. Mr. Maurizio said it would be better to have the small shed in line with the front of the house. Mr. Kozlowski asked where is the electricity supplied to the large shed. Mr. Harris said from a cable connected to the house. Mr. Kozlowski asked if a permit was obtained for the electric. Mr. Harris said no. Mr. Perry asked if the small shed had to be moved 25' would the applicant be willing. Mr. Harris said yes. Mr. Perry asked if he would be willing to acquire all the permits needed like building, electric, plumbing for both sheds. Mr. Harris said yes. Mr. Nagie noted that the applicant is willing to comply with moving the shed and getting all the necessary permits. Mr. Nagie also noted that the neighbor will have something to say which could shed light on everything. Mr. Perry referred to the 2' overhang on the house roof and porch. Mr. Harris said he has requested a variance to put a roof over the front porch, over the side entrance and the rear deck. Mr. Harris said he wants to screen in all three sides of the rear porch. Planner Bolan asked about the overhang on the house. Mr. Harris said the overhang goes all the way around the house. There was a lot of discussion regarding the deck off the back of the house. Mr. Harris was asked the size of the deck off the back of the house. Mr. Harris said it is 15' wide but didn't know the other dimension. Mr. Harris said this is all part of the application. Attorney Orr said with what Mr. Harris would like to do to the house it will not expand the footprint.

During the discussion of the variances for the house, the following was marked into evidence: **A13**-drawing of house. Mr. Kozlowski asked the size of the porch. Mr. Harris said 15' x either 12' or 14'. He wasn't quite sure. Planner Bolan asked if the front porch would be screened. Mr. Harris said no, it would be open. Mr. Kozlowski asked Mr. Harris about his job. Mr. Harris said he is an inspector for heavy highway structure construction up in Clifton, N.J. Chairman MacQueen opened the hearing to the public for questions of the testimony given. There were none.

Chairman MacQueen announced the board will take a recess at this time 8:36 p.m. When the board reconvened at 8:48 p.m. Attorney Orr stated that during the recess in speaking with his client there is a point or two that need to be clarified. Attorney Orr asked Mr. Harris if it were possible would he want to enclose the front porch with screening. Mr. Harris said yes. Attorney Orr asked Mr. Harris about moving the small shed. Mr. Harris said he would be willing to move it back 25' and move the large shed 20' in from the property line of the next door neighbor. Chairman MacQueen opened the hearing up to the public for testimony. Nancy Darois was sworn in to give testimony. Ms. Darois said her son had previously owned the property. The back porch was on the house. The second story porch was put on without permits, the front porch was put on after the Harris's moved in. The large shed was put in without permits and too close to the next door neighbors property line. The gas tank is on the neighbor's side and it is too close to the house. Ms. Darois said that Mr. Harris ran a business out of the large shed. Ms. Darois said Mr. Harris does whatever he wants to do. He has had toxic paints in the large shed. Ms. Darois said that this has been going on for a long time and Mr. Harris has never gotten any permits for any thing he has done on the property. Ms. Darois said he has a pipe that runs water out to the property owned by DEP. Ms. Darois said she wanted the board to know what the situation is with the property. Mr. Maurizio asked Ms. Darois how long has she lived on Butler

Lebanon Township Board of Adjustment
September 26, 2012
Page 4

Park Road. Ms. Darois said 35 years. Mr. Nagie asked Ms. Darois if she has ever approached Mr. Harris with all the things he has done illegally. Ms. Darois said there are other things going on and that's why she hasn't said anything. Chairman MacQueen asked if anyone had questions of Ms. Darois. There was none. Chairman MacQueen asked if anyone else wanted to give testimony. Kerri Brynildsen neighbor to the Harris's was sworn in to give testimony. Ms. Brynildsen said she has lived on Butler Park Road for 6 years and the Harris's home and shed are visible from her property. Ms. Brynildsen said the Harris's keep their property very neat. Chairman MacQueen asked if anyone had questions of Ms. Brynildsen. There were none. Attorney Orr said they are done with their testimony.

Chairman MacQueen asked Planner Bolan for his testimony. Planner Bolan was sworn in. Planner Bolan said the issue is the location of the 2 sheds not having two sheds. Planner Bolan said what is being done to the dwelling is fine and it will finish off the dwelling nicely as what is proposed and moving the shed back will work also. Planner Bolan said the large shed 14 x 44 is his main concern since it is only 12.5 off the property line. Planner Bolan said there is a way to comply with the combined side yard and rear yard setback of 50'. The large shed could be moved 27' and be about 15' from the house and rear of the property. If moving it the 27' you would have a combined 50' side & rear yard which is the standard for that zone. However, moving the shed 15' or 20', that would keep it more in line with the front shed. It still won't comply with the side yard but it would be a better plan for that area. The small shed 10 x 12 could also be moved back so that it has the same front yard setback as the existing residence. After hearing Planner Bolan's testimony, the board members discussed relocating the two sheds in order to have them more conforming.

Chairman MacQueen had a question for Planner Bolan. If you take the 44' shed and move it over 14' and take the small shed and move it so both sheds are next to each other. If moving the large shed 14' how close would it be to the back property line. Planner Bolan did not think it was that critical. Planner Bolan said his concern is the front yard setback for the small shed and the side yard for the large shed. Mr. Kozlowski asked about moving the propane tank that's not shown on the plan. Chairman MacQueen agreed that it had to be moved. Mr. Perry had questions regarding the sheds. Planner Bolan said the plans have to be amended to show the new location of the two sheds in order for the Zoning Officer to sign off per the Resolution. The board discussed the shed issue at length. At the conclusion of the board's questions of Planner Bolan, Chairman MacQueen asked Attorney Orr if he had questions of the Planner. Attorney Orr said no. When opened to the public for questions of the Planner, there were none. Attorney Orr interjected and said he had a question of the Planner. Attorney Orr asked with moving the two buildings close to each other would they still be considered two separate buildings. Planner Bolan said yes. Planner Bolan explained by moving the small building back 16' it would then be 21.9' back from the road and the house is 21.6' back from the road and you would still have 15-20' between the two buildings. Attorney Orr asked if the larger building could be moved in 12' instead of 14'. Planner Bolan said yes. It would then meet the side yard requirement of a minimum of 20'.

Chairman MacQueen asked for a motion to close the public portion of the hearing. Motion by Mr. Maurizio and seconded by Mr. Perry to close the public portion of the hearing. Unanimously approved. The board deliberated at this time. The discussion centered around the two sheds with relocating them. Also the propane tank will need to be moved. During the deliberations, Chairman MacQueen said it is bizarre that someone who works with construction could put in two sheds without permits in this township. Chairman MacQueen said if it were up to him he would have both sheds removed. Also he hoped that the applicant has gotten permits for all the other work that has been done on the property. Chairman MacQueen went on to say that the applicant will have to do everything right on the property and he is sure the neighbors will be watching to make sure everything is done correctly. Chairman MacQueen asked Planner Bolan for guidance regarding the two sheds. Planner Bolan recommended moving the small shed 22' from the lot line in the front and 21' from the lot line on the side and that will still provide access from the gravel areas. Chairman MacQueen asked the board if they were in agreement with the footage for moving the two sheds. They all agreed. The board discussed the time frame for all this getting done. Attorney Gallina said normally the time frame is 18 months for getting the permits, but that since these sheds are already up then getting permits and moving the sheds should be done forthwith. Attorney Gallina asked the board if they would want to put a time frame on moving the sheds and getting the permits. Attorney Gallina said if the applicant doesn't take care of this in the time frame you give him, then it can be turned over to the Zoning Officer for enforcement. The board discussed a deadline date and came up with June 1st. Attorney

Lebanon Township Board of Adjustment
September 26, 2012
Page 5

Gallina said the plans need to be revised showing the new location of the sheds, then the Zoning Officer can issue a zoning permit per the resolution and from there the applicant can get his building permits. The board said with the permits needed for the house the condition for that will be 18 months. It was noted that Attorney Orr wanted to address the board. Motion by Mr. Perry and seconded by Mr. Maurizio to reopen the public portion of the hearing. Unanimously approved.

Attorney Orr said the life of a building permit is a year and asked that the board give the applicant a year with the 2 buildings. This was briefly discussion. At the conclusion and being no comments from the public, motion by Mr. Perry and seconded by Mr. Nagie to close the public portion of the meeting. Unanimously approved.

The board continued to deliberate and at the conclusion of the discussion, motion by Mr. Maurizio and seconded by Mr. Perry to grant bulk variance relief permitting the expansion of the roof line for the principal residence and for the location of the storage sheds is hereby approved with the following conditions:

- a. The applicant shall obtain all other necessary approvals from any outside agencies having jurisdiction including but not limited to building sub-code approval.
- b. The shed located at the front of the property at Butler Park Road, being the 10' x 12' shed will be moved back so that the shed will have a front yard Setback of 22' from the front lot line and 21' from the side lot line.
- c. The 44' x 14' shed will be moved so that the shed will be located 25' from the side lot line and 3' from the rear lot line. The propane tank on the shed will be moved from the side facing adjacent to Lot #15 to the other side of the shed.
- d. The applicant will submit the necessary "as built" plan showing the new locations of the sheds as approved by the Board.
- e. The applicant shall forthwith apply for the proper permits for the sheds. The sheds shall be relocated as required by this Resolution no later than June 1, 2013.
- f. The applicant will pay all necessary fees and escrows payable in connection with the application.
- g. All necessary permits regarding the proposed improvements to the home shall be obtained within 18 months of the date of the adoption of this Resolution. (The applicant is advised that pursuant to Ordinance section 45-20, if an extension of this time period is needed; the request must be made in writing prior to the expiration of the 18 month period).

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

Attorney Gallina will prepare the resolution to have on the October 24, 2012 Agenda for adoption.

The board decided to go back in deliberations regarding adding one additional condition with a motion by Mr. Kozlowski and seconded by Mr. Maurizio. Unanimously approved.

Attorney Gallina said one of the conditions will be the plans will be revised to show the new location of the sheds which will be done forthwith. Attorney Gallina said until the plans are revised no zoning permit or building permits will be issued. Attorney Orr wanted to know who will be reviewing the revised plans. Chairman MacQueen said the revised plans will come in to Ms. Glashoff and she will give a copy of the original plan and the revised plan to the Zoning Officer for his review in order for the applicant to obtain the zoning permit approval and to obtain the construction permits from the Construction Department. At the conclusion of the discussion, motion by Mr. Maurizio and seconded by Mr. Kozlowski to close the public portion of the hearing. Unanimously approved.

Lebanon Township Board of Adjustment
September 26, 2012
Page 6

PRESENTATION OF BILLS:

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|-----------------------|--|
| a. John Gallina, Esq. | \$ 250.00 – Attend ZBA Meeting 8/22/2012 |
| | \$ 312.50 - Escrow – Prepare Resolution (Koch) |
| b. Michael Bolan, PP | \$ 260.00 – Attend ZBA Meeting 8/22/2012 |
| | \$ 213.00 – Escrow – Review application, site inspect (Harris) |
| | \$ 213.00 – Escrow - Review application, site inspection (Koch) |
| c. Bayer/Risse Engrs. | \$ 250.00 – Attend Bd Meeting 8/22/2012 |
| d. Court Stenographer | \$ 250.00 - Attend ZBA Meeting 9/26/2012 |
| Total: | \$1,748.50 |

Ms. Glashoff noted there is an Agenda Addendum with additional bills for Attorney Gallina totaling \$343.75. This brings the Grand Total to: **\$2,092.25**. Motion by Mr. Kozlowski and seconded by Mr. Maurizio to approve the bills as amended. Unanimously approved.

CORRESPONDENCE:

- a. Law of the Land Articles (3)
- b. Law Bulletin 9/2012

Being no further business to come before the board, nor comments from the public, motion by Mr. Nagie and seconded by Mr. Perry to adjourn the meeting at 9:45 p.m. Unanimously approved.

CHAIRMAN GARY MACQUEEN

GAIL W. GLASHOFF, BOARD SECRETARY