

REGULAR MEETING

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

November 12, 2008

The Regular Meeting of the Lebanon Township Board of Adjustment was called to order at 7:38 p.m. by Chairman Bruce Terzuolo. Present were: Mr. Machauer, Mr. Kozlowski, Mr. MacQueen, Mr. Perry, Mr. Nagie, Mr. Abuchowski, 2nd Alternate Maurizio, Attorney Gallina and Engineer Risse. **Excused:** Mr. Eberle

Notice of this meeting was provided for in the “Annual Meeting Notice Schedule” adopted by this board on January 23, 2008, 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 November 5, 2008.

TRANSCRIPT OF MINUTES OF NOVEMBER 10, 2004

PRESENTATION OF BILLS:

| | |
|-----------------------|---|
| a. John Gallina, Esq. | \$ 316.25 – Attend Board Meeting 10/22/2008 |
| | \$ 115.00 – Escrow (Transtar Truck Body) |
| b. Bayer/Risse Engrs. | \$ 690.00 – Attend Bd Mtg 9/24/2008 & 10/22/2008 |
| | prepare for both meetings |
| | \$ 172.50 - Escrow (Patrick Allen) |
| | \$ 460.00 - Escrow (Sarao-Irish Jacks) |
| | \$ 460.00 - Escrow (Hensler) |
| c. Court Stenographer | \$ 200.00 – Attend Board Mtg 11/12/2008 |
| | \$ 345.00 - Prepare Transcript of Brandner |
| Total: | \$2,758.75 |

Ms. Glashoff informed the board that she had one additional bill to add which are for the flowers for Mrs. Perry of \$40.00. This brings the grand total to **\$2,798.75**. Motion by Mr. MacQueen and seconded by Mr. Nagie to approve the bills as amended. Unanimously approved.

CORRESPONDENCE:

- a. Law Bulletin 10/2008
- b. Zoning Practice 10/2008

FYI: At the December Meeting I will have on the Agenda: Budget, Terms & Reorganization Meeting Date.

RESOLUTION:

- a. Notice of Intent to Petition the Highlands Council for Plan Conformance – Planner Bolan

Ms. Glashoff informed the board that she had received the letter for each board. The Planning Board at their November 4th meeting last week discussed the letter and was informed by Planner Bolan this is to be handled by the Township Committee and the board doesn't have to do anything. This was already on your agenda for this evening and is only considered an FYI. Mr. MacQueen concurred stating that a letter of intent will be sent to the Highlands stating the Township will conform.

Attorney Gallina said that Randolph Township in Morris County informed the Highlands that they will not opt in or comply with COAH. Attorney Gallina referred to the article in the Star Ledger last week regarding Randolph Township.

DEEM COMPLETE AND SET A PUBLIC HEARING DATE:

- | | |
|---|--------------------------|
| a. Patrick Allen | Block #16 Lot #64 |
| Rebuild 2 nd House on Private Road | Old Readingsburg Road RC |

Attorney Robert Boak was present to represent the applicant Patrick Allen who is presently out of the country. Mr. Kozlowski recused himself from the proceedings at this time. Chairman Terzuolo asked Engineer Risse to give his report. Engineer Risse informed the board that the applicant is asking for a few waivers for completeness only like topography, and environmental inventory. Engineer Risse stated that he met with the applicant's engineer Robert Zederbaum at

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the site. The issues at the site pertain to the uses and the variance. It seems to make sense they should go through the board to get these issues cleared up. Attorney Gallina stated that during the public hearing if the board chooses they can request additional information to make an informed decision. Attorney Boak informed the board they have submitted an amended application requesting additional relief because of what the Zoning Officer had addressed at the last completeness hearing. Chairman Terzuolo informed Attorney Boak that there are several issues on the property that must be dealt with. The board can not grant relief for someone building on someone else's property. These issues were addressed at this time briefly since this is a completeness hearing and not a public hearing.

At the conclusion of the board's discussion, Chairman Terzuolo asked for a motion to deem complete based on Engineer Risse's comments. Motion by Mr. Abuchowski and seconded by Mr. Nagie to deem application complete. Unanimously approved. Chairman Terzuolo asked Ms. Glashoff for a hearing date. Ms. Glashoff offered January 28, 2009 at 7:30 p.m. Ms. Glashoff informed Attorney Boak that the board will be having their reorganization at 7:30 p.m. before conducting the regular business of the board.

Mr. Kozlowski returned to the board at this time. Chairman Terzuolo announced the next order of business to come before the board.

NEW BUSINESS:

| | | |
|--------------------------|----------|--------|
| Ronald Hensler | Block #8 | Lot #7 |
| 2054 Route 31 North | Route 31 | B2 |
| Glen Gardner, N.J. 08826 | | |

PUBLIC HEARING Site Plan with Use Variance

Attorney Lawrence Fox was present to represent the applicant Ronald Hensler. Attorney Gallina announced that the notices are in order and the board can proceed with the hearing. The following items were marked into evidence: **A1**-Taxes Paid, **A2**-Certified List of Property Owners and Utilities, **A3**-Certified List of Property Owners-Bethlehem Township, **A4**-Notice to Property Owners, **A5**-Affadavit of Proof of Service, **A6**-POD Slips, **A7**-Notice in Newspaper.

Attorney Fox stated the applicant is here this evening for Site Plan and a Use Variance to have three uses on the property. Attorney Fox had the following marked into evidence: **A8**-Site Plan prepared by David Fantina, Engr. dated 11/29/2007 and revised 8/20/2008. The applicant Ronald Hensler was sworn in to give testimony. Mr. Hensler testified that he has lived on the property over a 1 year. The property is located on Route 31 in the B2 Highway Business Zone. The property consists of .8588 acres. The minimum lot requirement is 1.5 areas. There is a stone house, a residence where he resides along with a garage. Mr. Hensler reviewed for the board the photographs of the property as it is today. The following was marked into evidence: **A9**- four (4) photographs of the property. Mr. Hensler stated he has been in the nursery business for 30 years. He buys and sells trees he gets from local farmers and nurserymen. He is looking to retail from the property in question. Mr. Hensler said he would like to sell trees the months of April, May, June and September, October, November and December. A total of 7 months per year. He would sell Christmas Trees during December. He would be open on Saturdays and Sundays only. His hours of operation during spring and fall would be 9:00 am to 5:00 pm. During the month of December he would like to be open until 8:00 pm for selling Christmas trees.

At the conclusion of Mr. Hensler's testimony, the board asked the following questions: Mr. Machauer asked about advertising. Mr. Hensler stated people know him since he is established and he currently does not advertise. Mr. Maurizio asked about the use for the Stone house. Mr. Hensler said he would use it for office use. Mr. Kozlowski asked if he was currently selling trees. Mr. Hensler said no, but had been until he received a summons from the Zoning Officer. Mr. MacQueen asked about the sign. Mr. Hensler said he would use the existing sign. The question was asked about the irrigation system. No irrigation system will be used, nor firewood, fertilizer, mulch or stone products would be sold. There was a question regarding lighting. The only lighting will be during Christmas season with a temporary strand of lights. Mr. Nagie asked about parking. Mr. Hensler said there are 7 parking spaces currently on the property; if more are needed then additional cars can be parked in the area adjacent to the dwelling. Mr. MacQueen asked about the trees that don't sell. Mr. Hensler said he would wholesale them out to a landscaper. Mr. Abuchowski asked if this was the primary source of income. Mr. Hensler

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answered yes. Mr. Hensler informed the board that he is a landscaper during the week, doing trees, patios. Chairman Terzuolo asked how the applicant plans on preserving the trees that are not sold without watering them. Mr. Hensler said that he is very conservative with watering the trees with a hose. Chairman Terzuolo reviewed the four structures on the property: 1 stone house use as an office, 2 garages, 1½ story house that is occupied by the applicant. Chairman Terzuolo asked Mr. Hensler if this is correct. Mr. Hensler answered yes. Chairman Terzuolo stressed to the applicant that if anything changes on the property, the applicant must come back to the board. This approval is only for the use by the applicant. If the applicant changes the sign or rents out the office space to someone else, he must come back to the board.

Chairman Terzuolo asked Engineer Risse if he had any questions. Engineer Risse asked for clarification of the seasonal lighting proposed. Mr. Hensler stated the lights will be strung along the road. Chairman Terzuolo opened the hearing to the public for questions. There were none. Attorney Fox noted there were no other witnesses to give testimony. Attorney Fox stated that this location is appropriate for the type of business Mr. Hensler wants to conduct. Chairman Terzuolo opened the hearing to the public for comments and statements. There were none. Chairman Terzuolo announced that the public portion of the hearing is now closed. Chairman Terzuolo reopened the hearing for a question of Mr. Hensler. Chairman Terzuolo asked Mr. Hensler if his nursery business is operated fully on this property. Mr. Hensler answered yes stating that he does designs and installs with no maintenance. Mr. MacQueen asked where the equipment is stored. Mr. Hensler stated on the property on Route 31 or on the farm where he is working. Mr. MacQueen asked if the applicant would be selling firewood. Answer was no. Mr. Hensler did say that he might sell flowers, plants and some nursery products. Mr. Hensler said he would not be selling fertilizer, woodchips or mulch.

Chairman Terzuolo asked Attorney Gallina to review for the board the uses that are allowed in the B2 zone. Mr. Perry had a question of Attorney Gallina regarding uses. At this time, Chairman Terzuolo opened the hearing to the public for questions. There were none. He then opened the hearing to the public for statements and comments. There were none. Chairman Terzuolo asked Attorney Fox to give his summation at this time. At the conclusion of the summation, Chairman Terzuolo announced that the evidence taking portion of the hearing is now closed.

During the board's deliberations, Mr. MacQueen stressed the importance of tying down what will be sold on site. At the conclusion of the board's discussion, motion by Mr. Nagie and seconded by Mr. Perry to grant a Use Variance and Site Plan with the following conditions:

- a. The applicant will obtain all other required approvals from all outside agencies having jurisdiction in this matter.
- b. The hours of operation of the part-time retail tree sale business will be on Saturdays and Sundays during the months of operation, generally from 9:00 am to 5:00 pm and up to 8:00 pm during the Christmas season. The business will be open for operation during the months of April, May, June, September, October, November and December.
- c. The business will only involve the sale of trees, bushes and ornamental nursery items that are brought to the site from outside sources. The business will not involve the sale of any hardscape items, mulch, fertilizer or firewood.
- d. The only equipment to be used in the proposed retail business will be a single axle dump truck, a skid steer loader and a landscape trailer. The only outside storage permitted will be for trees, bushes and ornamental nursery items which will be located only in the tree display area designated on the site plan.

ROLL CALL

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

Attorney Gallina will prepare the Resolution to be placed on the agenda for the next Regular Meeting of December 10, 2008.

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

CHAIRMAN BRUCE TERZUOLO

GAIL W. GLASHOFF, BOARD SECRETARY