

REGULAR MEETING

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

June 3, 2014

The 882nd Regular Meeting of the Lebanon Township Planning Board was called to order at 7:04 p.m. by Chairman Gary MacQueen. Present were: Mr. Milkowski, Mr. Laul, Mr. Schmidt, Mr. Piasecki, Mr. Rich, Ms. Bleck, Mr. Weiler, 1st Alternate Gerlich, 2nd Alternate Skidmore, Attorney Gallina, Planner Bolan, Engineer Risse and Mr. McKee arrived at 7:55 p.m.

Notice of this meeting was published in the "Annual Meeting Notice Schedule" adopted by this board on January 14, 2014, 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 May 28, 2014.

PRESENTATION OF MINUTES: May 6, 2014 Regular Meeting

Motion by Mr. Rich and seconded by Ms. Bleck to approve the minutes as corrected. Unanimously approved.

ORDINANCE BACK FROM TOWNSHIP COMMITTEE:

- a. Highlands Exemption Ordinance 2014-05 – Public Hearing scheduled: June 16, 2014
Back for comments/recommendation.

After a brief discussion, motion by Ms. Bleck and seconded by Mr. Laul to send back to the Township Committee recommending the Public Hearing and adoption of Ordinance 2014-05 on June 16, 2014.

ROLL CALL	Yes: Mr. Milkowski	Mr. MacQueen	No: Mr. Schmidt
	Mr. Laul	Ms. Bleck	Mr. Rich
	Mr. Gerlich	Mr. Weiler	Absent: Mr. McKee
	Mr. Piasecki		

RESOLUTIONS:

- a. Tuscany Grill Block #3 Lot #4
Minor Site Plan/Variiances Route 31 B2
with conditions

Motion by Mr. Rich and seconded by Mr. Schmidt to approve the Resolution for Tuscany Grill as presented.

ROLL CALL	Yes: Mr. Milkowski	Mr. Rich	Absent: Mr. McKee
	Mr. Laul	Mr. MacQueen	Abstain: Mr. Gerlich
	Mr. Schmidt	Ms. Bleck	Mr. Skidmore
	Mr. Piasecki	Mr. Weiler	

- b. Muller Toyota Block #3 Lot #5.01
Preliminary/Final Site Plan/Variiances Route 31 B2
with conditions

Motion by Ms. Bleck and seconded by Mr. Rich to approve the Resolution for Muller Toyota as amended and corrected.

ROLL CALL	Yes: Mr. Laul	Ms. Bleck	Absent: Mr. McKee
	Mr. Piasecki	Mr. Weiler	
	Mr. MacQueen		

Since Mr. Schmidt and Mr. Rich voted No and Mr. Milkowski Abstained on the application, they were not able to vote on the Resolution.

HUNTERDON COUNTY PLANNING BOARD PRESENTATION: Dana Desiderio
(Presentation Information enclosed) Ms. Desiderio did not show up.

NEW BUSINESS:

New Jersey Conservation Foundation	Block #16 Lots #20 & 20.02
170 Longview Road	Hoffmans Crossing Road RC
Far Hills, N.J. 07931	

PUBLIC HEARING Lot Line Adjustment/Merger and Bulk Variiances

Attorney John Belardo was present to represent the applicant. Attorney Belardo gave a brief presentation stating this is a minor subdivision/ lot merger which they are seeking in the RC zone (Resource Conservation District). They are looking to create two new lots. Lot 20 which will consist of 37.094 acres and Lot 20.02 will consist of 50.028 acres. There are 2 pre-existing variiances, Lot #20 has 324.81' for lot width & frontage and required is 350'. Lot #20.02 is a flag lot with the stem being 48.69' instead of the

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required 50'. Attorney Belardo said nothing is going to change regarding the width of the flag stem and Mr. Fattton will address that issue at the time he gives his testimony. The existing Lot 20.02 was created back in 2008 as an agricultural subdivision. They propose to subdivide a 16.004 acre portion from existing Lot 20 and merge to Lot 20.02. Per Attorney Belardo there is an existing access easement across from Lot 20 that benefits Lot 20.02 which will be vacated and create a new 25' access easement.

At this time, Attorney Gallina announced that all the notices are in order and the board can proceed with the hearing. The following items were marked into evidence: **A1-Taxes Paid**, **A2-Affidavit of Proof of Service**, **A3-Notice to Property Owners & Utilities**, **A4-Certified List of Property Owners & Utilities**, **A5-POD Slips**, **A6-Publication in the Newspaper**, **A7-Hunterdon County Planning Board Letter dated April 17, 2014**. Attorney Gallina had the following people sworn in to give testimony on behalf of the applicant: Ingrid Vandegaer of the N.J. Conservation Foundation, Patrick Fattton, LLS, & Planner Robert Lorentz.

The following was marked into evidence: **A8-Colored drawing of proposed Subdivision/Merger dated June 26, 2013**. Ms. Vandegaer stated that the Foundation has negotiated with the owner to acquire a tract of land for the purpose of preservation. Ms. Vandegaer said they intend to purchase new Lot 20.02 after the subdivision/merger is completed. Attorney Belardo asked Ms. Vandegaer to explain why the new ROW was been proposed. Ms. Vandegaer said the current access lane runs between the existing pavilion and the pond on Lot 20. The proposed new access will be located behind the pavilion which is a more efficient means of access. Chairman MacQueen asked if the board had questions of Ms. Vandegaer. Mr. Rich asked why the 5 acre lot was not included. Ms. Vandegaer said it will remain with the owners of Four Seasons. Planner Bolan asked why the 25' access easement was being changed. Ms. Vandegaer said the current access easement is currently between the Pavilion and pond. The new access easement will be behind the Pavilion which is a better location. Chairman MacQueen asked Ms. Vandegaer to show on the map where the new access will be located. Attorney Belardo said it is on the survey and the next exhibit that Patrick Fattton will address.

Patrick Fattton, Land Surveyor gave his presentation at this time. The following was marked into evidence: **A9- Minor Subdivision/Lot Merger dated March 6, 2014 and revised May 6, 2014 prepared by Patrick Fattton, LLS**. Mr. Fattton referred to the letter from Hunterdon County Planning Board (**A7**) that indicates that the applicant would be required to execute a Bridge Maintenance Easement to the County located at the intersection of Lots #21 & Lot #20.02 and explained to the board what the applicant will need to do regarding this easement. Mr. Fattton stated he colorized existing Lot 20 in yellow currently is 53.098 acres. The current area of Lot 20 includes what he hatched in pink which is part of the 53.098. In pink is a portion of Lot 20 16.004 acres that will be merged to the orange shaded of Lot 20.02. Lot 20 in orange is a flag lot with a dog leg to it and within the flag lot is the existing paved driveway which allows egress and ingress to the residents on Lot 20. There is an existing access easement through the flag lot on Lot 20.02 shaded in yellow and continues where it is shown hatched which is the existing access easement that was created with the Agricultural Subdivision in 2008. Mr. Fattton said at the request of a property owner and the applicant they proposed the hatched portion of the existing access easement through Lot 20 to service Lot 20.02 and abandoned the hatch portion and reconfigured through the yellow shaded area shown here on the plan. There is a bermed up area through the westerly portion of the new access easement that will serve for access to the Conservation Foundation.

Mr. Fattton stated one of the variances they are asking for is lot width & lot frontage on Lot 20.02. The flag stem is 50' wide until you approach the last 25' where it meets the ROW, and then it is only 48.69'. They were unable to acquire additional land to make it a full 50' ROW. Then Lot 20 will have 37.094 acres and Lot 20.02 will be 50.028 acres. Mr. Fattton referred to the Flag Stem which shows the first 25' of the stem is slightly over 48' and 50' is required by ordinance. Mr. Fattton went on to say that Lot 20 has existing non-conformities of lot width and lot frontage. Per the ordinance frontage and width requires 350' and Lot 20 has 324.81. Mr. Fattton noted that nothing will change and no new structures are proposed for Lot 20. At the conclusion of Mr. Fattton testimony, Chairman MacQueen asked if the board had any questions. Mr. Milkowski asked about the width of the ROW and asked how much it was lacking to be conforming. Mr. Fattton said 1'31" short of the last 25' of the length. Planner Bolan asked about the new easement and the culvert. Mr. Fattton said there are two culverts, one at the beginning of the easement and one at the end of the easement. Mr. Fattton stated they are both pre-existing. Engineer Risse referred to the new 25' access easement/travel way. Mr. Fattton said it is bermed up and it can be traveled as a road. Chairman MacQueen opened the hearing to the public, there were no public questions.

Planner Robert Lorentz gave testimony on behalf of the applicant. Planner Lorentz stated that the existing nonconformities referring to lot frontage and lot width for Lot 20 will not be increased as a result of this subdivision. There is no detriment to the public good or the zone plan. Planner Lorentz went on to say that the variance relief being requested under NJSA 40:55D70c(1) is appropriate in this case. Planner Lorentz referred to the nonconformity of the flag stem on Lot 20.02. Except for the first 25' from the public ROW, the flag stem measures 48.69' which is only 1.31' of deficient. Planner Lorentz said the variance relief for this nonconformity is appropriate and is an existing condition that will not be increased; also per the MLUL it furthers the objectives to preserve open space. At the conclusion of Planner Lorentz testimony, Chairman MacQueen asked if the board had any questions. There were none. When opened to the public, there were no questions. Attorney Belardo gave his summation at this time. Engineer Risse stated that the proposed application will not be used as a building lot; it preserves open space and also preserves the rural

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character of the area. Planner Bolan said the access easement is appropriate and noted it will not be paved. Chairman MacQueen asked for a motion to close the public hearing. Motion by Ms. Bleck and seconded by Mr. Piasecki to close the public portion of the hearing. Unanimously approved.

During the board's deliberations, questions regarding parking and signage were brought up. Chairman MacQueen asked for a motion to reopen the public hearing. Motion by Mr. Rich and seconded by Mr. Schmidt to reopen the public portion of the hearing. Unanimously approved. The board was informed that the property will be posted with signs indicating the area is for passive recreational use. Regarding parking, the board was informed that parking will be along Raritan River Road and not on the preserved land. At the conclusion of discussion, motion by Ms. Bleck and seconded by Mr. Weiler to close the public portion of the hearing. Unanimously approved. At the conclusion of the board's deliberation, motion by Mr. Rich and seconded by Mr. Laul to approve the minor subdivision/lot line & merger with bulk variances with the following conditions:

- a. The applicant shall obtain all other necessary approvals from outside agencies having jurisdiction.
- b. The applicant will pay all necessary fees and escrows payable in connection with the application.
- c. The applicant will submit proposed subdivision deeds to the Board Engineer & Board Attorney for review and approval. The proposed revised access for Lot 20 will be included in the subdivision deeds and described by metes and bounds description. The deed for Lot 20.02 will also reference the bridge maintenance easement granted to Hunterdon County.

ROLL CALL	Yes: Mr. Milkowski	Mr. Rich	Absent: Mr. McKee
	Mr. Laul	Mr. MacQueen	Abstain: Mr. Skidmore
	Mr. Schmidt	Ms. Bleck	
	Mr. Gerlich	Mr. Weiler	
	Mr. Piasecki		

Attorney Gallina will prepare the resolution to be on the next agenda of July 1, 2014.

McKay Brothers, LLC
c/o Gregory Meese, Esq.
50 Tice Blvd
Woodcliff Lake, N.J. 07677

Block #9 Lot #8
Sanatorium Road RC

PUBLIC HEARING Conditional Use/ Collocation for Antennas & Equipment

Attorney Gregory Meese represented the applicant and made a presentation to the board. It was noted that with the change in the law, site plan is not required for collocations. The applicant desires to collocate 2 microwave dish antennae on an existing 180' lattice tower at a height of 90'. Attorney Gallina announced that all the notices are in order and the board can proceed with the hearing. The following was marked into evidence: **A1-Taxes Paid, A2-Affadavit of Proof of Service, A3-Certified List of Property Owners and Utilities, A4-POD Slips, A5-Notice in Newspaper, A6-Disclosure Statement, A7-H.C. Planning Board letter dated May 14, 2014.**

Attorney Gallina had Engineer Anthony Suppa sworn in to give testimony. Engineer Suppa referred to S1 of the construction plans which show the compound layout. Engineer Suppa stated that the existing compound is 7000 sq. feet in area and surrounded by chain link fencing. Engineer Suppa said the applicant would like approval to collocate two 6' microwave dish antennae on the existing 180' lattice tower. There will be 4 cables running from the antennae into the compound. There will be no ground disturbance and there will be no lighting on the tower. Engineer Suppa noted that under the Federal collocation law, if the height of the tower is not changed, the approval for the collocation is required to be granted. Engineer Suppa went on to say that the microwave dish antennae are used for microwave communications to transmit financial data through a microwave communications network. Engineer Suppa noted that the alternative technology is transmitting information at the desired speed is not available at this time. At this time the following was marked into evidence: **A8-photographic simulations (tower location & views) prepared by Malick & Scherer dated February 10, 2014.** At the conclusion of Engineer Suppa testimony, Chairman MacQueen asked if the board had questions. Mr. Milkowski said from another application that had been before the board regarding tower dishes, the board got a drawing of the actual direction that they are aimed. What is the direction of these dishes with a drawing of the actual directions, also was concerned since these are at a much lower elevation which is not the higher part of the Township. Attorney Meese said that their RF Engineer Shelton will be able to answer these questions. Mr. Schmidt asked if these cables are going into the existing cabinet owned by McKay Bros. The response was yes. Mr. Rich asked what the antennae are going to be used for and what will they be transmitting. The response was a microwave communications network. The clients are in the financial industry, it is the financial data that is transmitted. Mr. Rich asked when the original tower went up. Ms. Glashoff said the tower already existed back in 1990 when Bell came before the Board of Adjustment. Mr. Rich said since he has been in the financial business, what kind of data goes from whom to whom. Engineer Suppa said it goes from

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New York to Chicago, stock market data. Planner Bolan said that two sets of standards that are outlined in his memo. One is the Conditional Use Standard which needs to be addressed or the board does not have jurisdiction and the next witness will be addressing the need. Also, the requirements of the MLUL in order to qualify for the Site Plan Exemption and they addressed those 3. Chairman MacQueen opened the hearing to the public for questions. There were none.

RF Engineer James Shelton was sworn in to give testimony. Engineer Shelton made a presentation to the board. Engineer Shelton informed the board that the RF emissions comply with State and Federal standards and the total emissions would be 0.38% of the limit permitted by Federal standards. Engineer Shelton stated that energy from the microwave dishes are focused on the next tower location and that the microwave technology has more speed and capacity in transmitting information than a fiber optic system. At the conclusion of Engineer Shelton testimony, Chairman MacQueen asked if the board had questions. Mr. McKee asked the energy that comes from east of here is at the same elevation or is it slightly higher. Engineer Shelton said it is about 50' lower. Mr. McKee asked does it go on an arch. Engineer Shelton said not really. Mr. Gerlich said to clarify, there are no customers taking signals off this you are just transferring it from one point to another. Engineer Shelton said yes. Mr. Laul said recently the board approved dishes at 80' centerline with 6' dishes and the applicant's will be at 90'. It only gives the applicant a 4' clearance. Engineer Shelton said it is up to the owner of the tower to make sure that everyone is coordinated so it doesn't create a problem whether it is dishes or antennae. Planner Bolan asked if a loading study was done. Engineer Shelton said it is up to the owner of the tower to make sure that everything is done correctly so there are no problems. Engineer Risse asked in the microwave spectrum, you are at a different frequency than your competitor that would be 4' away. Would they interfere with each other? Engineer Shelton said there are different bands that are allocated by the FCC. Within those frequencies are set aside channels. At the conclusion of the board's questions, Chairman MacQueen opened the hearing to the public. Anthony Casale asked a few questions.

At this time Attorney Meese gave his summation. Chairman MacQueen asked for a motion to close. Motion by Ms. Bleck and seconded by Mr. Rich to close the public portion of the hearing. Unanimously approved. It was noted that the application satisfies the criteria for the site plan exemption and the proposed collocation will not increase the height or width of the tower or expand the equipment compound. Chairman MacQueen asked for a motion. Motion by Mr. Schmidt and seconded by Ms. Bleck to approve the conditional use application to collocate two microwave dish antennae at a height of 90' on the existing tower with the following conditions:

- a. The applicant will obtain all necessary approvals from outside agencies having jurisdiction.
- b. The applicant will pay all necessary fee and escrows payable in connection with the application.

ROLL CALL	Yes: Mr. Milkowski	Mr. MacQueen
	Mr. Laul	Ms. Bleck
	Mr. Schmidt	Mr. Weiler
	Mr. Piasecki	Mr. McKee
	Mr. Rich	

Attorney Gallina will prepare the Resolution to be on the next agenda July 1, 2014.

ITEMS FOR DISCUSSION:

a. Annual Report from Board of Adjustment – Planner Bolan (Given out at May 6th Mtg)

Planner Bolan reviewed for the board the Annual Report. Planner Bolan said there was nothing unusual with any of the applications that would require recommending any amendments to the zoning ordinance. Planner Bolan said there are two recommendations which are long standing ones. One is regarding Private Roads and the monitoring approvals from the Zoning Board to the Zoning Officer.

b. Letter to T.C. re: Quarry (mailed separately)

Mr. Milkowski left the dais due to a conflict of interest. Mr. McKee said the letter from the Planning Board was read at the May 21st meeting of the Township Committee and it was decided to send a letter to the New Jersey Land Trust as to their opinions, feelings as to this concept. The Township Committee has received a response back but at this time the Committee hasn't had a chance to review and discuss it. Mr. McKee he would like to defer it until the Committee has had a chance to review the letter before going any further. Mr. Skidmore interjected asking since this is on the agenda for the board to discuss whether the letter was to be reviewed by the board before going to the Township Committee. Mr. Skidmore said the letter went directly from Attorney Gallina for the PB Chair's signature to the Township Committee. Mr. Skidmore said he did not feel the letter reflected what the board had decided and said there are other board members that would agree with him. The letter states that the Planning Board agrees and endorses this proposal. Mr. Piasecki said he agreed after reading the letter and that it had nothing to do with his thoughts. He did not get the impression that the board was endorsing it. Mr. Laul agreed and said even in the minutes it didn't

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depict an endorsement. That's why he was concerned by the first sentence. Mr. Skidmore said the board felt it was a great idea, that other agencies that had to review it first and then depending how they responded, but that we would not be the initial endorsement. Mr. Rich said he thought we would pursue the idea. Mr. Weiler said he was surprised that there was a dollar amount with the bonding. Mr. Weiler said he doesn't remember the board discussing a dollar amount. Mr. Rich asked how do we bring it back to where it should be. Attorney Gallina said if the board wants to revise the letter they can do that. Mr. Rich asked if we could send an addendum. Mr. Rich asked Mr. McKee if he agreed with that suggestion. Mr. McKee said yes. Mr. McKee stated he remembers that there was an interest in going forward. Mr. McKee said regarding the bond concept that was mentioned by Mr. Guida when he was here giving his presentation, but that wasn't what the bond we were talking about, it was about funding that would go to the NJ Land Trust as part of this deal. It was money to encourage the Land Trust to look at this in a different light. Mr. McKee said at that meeting where the board discussed sending a letter the vote was 7 to 2. Mr. Rich said to have the board discuss it and if the discussion is different from what was in the letter, we could always amend the letter. Mr. McKee said the Committee will hold their position for now if the Planning Board wants to discuss this further. If the Planning Board wants to look into this and discuss it a little bit further to see if there is a 7 to 2 vote or maybe closer. Mr. McKee said he would go along with that. Mr. McKee went on to say the Committee wrote a letter and received a reply but hasn't acted on it. The board said they would want to hear the reply first before having any further discussion. Planner Bolan asked who the reply was from, Mr. McKee said it was from the NJ Land Trust and it was immediately.

c. COAH – New Rules/Third Round – Planner Bolan

Mr. Milkowski returned to the dais. Planner Bolan passed out to the board his memo. Planner Bolan said the Third Round Rules should have come out in 1999, but there weren't purposed until 2004 and for the last 10 years it has gone back and forth between the Governor's Office, the Courts and the DCA. There have been several Supreme Court & Superior Court decisions which are forcing the executive branch to do something. The schedule for adoption of these rules again as established by the Supreme Court, calls for publication in the NJ Register on June 2, 2014 followed by a 60-day comment period and final adoption by COAH by November 17, 2014. A municipality falls within the jurisdiction of COAH if it has filed a Housing Plan Element and Fair Share Plan along with petition for Substantive Certification within a 2 year filing period. The municipal affordable housing obligation consists of three components: a rehabilitation share; unanswered prior obligation and the fair share of prospective need. Planner Bolan outlined for the board the 3 components. Planner Bolan stated a few comments to submit to COAH are immediately apparent, 1. that past affordable housing completions for the Township is under represented in the COAH figures, 2. point out that the fair share of prospective need is equal to the Township's total build-out as calculated by the Highlands Council, which means that all future development on 25 and 88 acre lots would have to be affordable housing. In the unanswered prior obligation category the Township's obligation is reduced to zero by the "buildable limit" factor. In the fair share of prospective need calculation a 13 unit reduction is applied to the obligation of 33 affordable units. Planner Bolan recommended sending a letter in during the 60 day comment period. The board discussed this issue at length and with a motion by Mr. Rich and seconded by Mr. Piasecki to have Planner Bolan send a letter in response to the proposed rules. Unanimously approved.

d. Ltr from Diane Glass (from Township Committee)

Mr. McKee informed the board that Diane Glass family would like to donate property they own to the Township. The property is located on Newport Road consisting of 1.75 acres just past the entrance to the Boy Scout Camp. There is a small house on the property that would need to come down and there are wetlands on the property.

PRESENTATION OF BILLS & REPORT:

a. John Gallina, Esq.	\$2,682.50
b. Michael Bolan, PP	\$2,130.00
c. Bayer/Risse Engrs.	\$3,123.75
Total:	\$7,936.25

Mr. Gerlich said that all the bills are in order and noted that the majority of the bills were escrow and recommended approval. Motion by Mr. Rich and seconded by Ms. Bleck to approve the bills as presented. Unanimously approved.

CORRESPONDENCE: Article Fair Share Housing Center (COAH 3rd Round Rules)

Being no further business to come before the board, nor comments from the public, motion by Ms. Bleck and seconded by Mr. Weiler to adjourn the meeting at 9:17 p.m. Unanimously approved.

CHAIRMAN GARY MACQUEEN

GAIL W. GLASHOFF, PLANNING BOARD CLERK