

REGULAR MEETING

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

July 2, 2013

The 871st Regular Meeting of the Lebanon Township Planning Board was called to order at 7:03 p.m. by Chairman Gary MacQueen. Present were: Mr. Milkowski, Mr. Schmidt, Mr. Gerlich, Mr. Piasecki, Ms. Bleck, Mr. Weiler, Mr. McKee, 1st Alternate Laul, 2nd Alternate Skidmore, Attorney Gallina, Planner Bolan and Engineer Risse. **Excused:** Mr. Rich

Notice of this meeting was published in the "Annual Meeting Notice Schedule" adopted by this board on January 15, 2013, 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 26, 2013.

The Chairman announced that the Board will go into Executive Session at this time and asked for a motion. Motion by Ms. Bleck and seconded by Mr. Laul to close the public portion of the meeting and go into Executive Session at 7:05p.m. Unanimously approved. The following board members excused themselves due to a conflict of interest: Mr. Piasecki, Mr. Gerlich and Mr. Weiler. The public was asked to leave at this time.

WHEREAS, Section 7(b) of the Open Public Meetings Act L. 1975 C. 231 NJSA 10:4-12(b)(8) permits the exclusion of the public from Planning Board Meetings where certain matters are to be discussed; and

WHEREAS, the Lebanon Township Planning Board is desirous to meet to discuss litigation;

NOW, THEREFORE BE IT SOLVED, by the Lebanon Township Planning Board of the Township of Lebanon, Hunterdon County, New Jersey that this Board met in Executive Session.

The Chairman announced that the board will return to the Regular Meeting and asked for a motion. Motion by Ms. Bleck and seconded by Mr. Schmidt to return to the public portion of the meeting. Unanimously approved. The following board members returned to the public portion of the meeting: Mr. Piasecki, Mr. Gerlich and Mr. Weiler along with the general public at 7:10 p.m.

PRESENTATION OF MINUTES: June 4, 2013 Executive Session

Motion by Mr. Laul and seconded by Ms. Bleck to approve the Executive Minutes as presented. Unanimously approved by those eligible to vote.

June 4, 2013 Regular Meeting

Motion by Mr. Piasecki and seconded by Mr. Gerlich to approve the Regular Minutes as presented. Unanimously approved.

APPLICATION TO DEEM COMPLETE/WAIVERS AND SET A PUBLIC HEARING DATE:

Muller Toyota	Block #3	Lot #5.01
Preliminary/Final Site Plan/Variances	Route 31	B2

(Completeness Letter from Engr. Risse Enclosed)

Mr. Skidmore said due to a conflict of interest he is stepping down from the board's discussion regarding Muller Toyota.

Engineer Joe Modzelewski and Attorney Mark Winter were present to discuss completeness and the waivers for Muller Toyota and made a presentation to the board. They informed the board they would like to have a service center across the road (Route 31) from the current building they have now. The site is known as the Rudl Fence property. Chairman MacQueen asked Engineer Risse to review for the board the checklist. Engineer Risse went through the following checklist items. The following waivers are being requested: **Item #13**-Estimate of site improvements on the preliminary plans. Waiver for completeness purposes only. **Item #14**-Engineer's estimate of all site improvements on the approved preliminary plans. Waiver recommended with any approvals conditioned on providing estimates. **Item #17**-Aquifer Test & Analysis Report. Based on the distance of nearby wells, this waiver could be granted. **Item #45**-Environmental Inventory, redevelopment of property to occur within existing developed footprint. Recommend waiver. **Item #56**-Public Utility, utilities exist on site, recommend waiver. **Item #60**-Plans & Profiles of utility layouts. Utilities exist on site, recommend waiver. **Item #71**-As-built drawings. Waiver for completeness only. Recommend any approval require a submission of an As-built drawing. Engineer Risse said the aquifer testing could be expanded upon during the public hearing. Chairman MacQueen asked if the board had questions. Mr. Laul asked why we have an estimate of construction cost requirement if we are going to waive it. Engineer Risse said we do need it, but not for completeness. The cost estimate will come later. Chairman MacQueen said during the public hearing if there are changes, then after that they can put together the estimated cost. Engineer Risse agreed and said the plan they have submitted now could drastically change. Planner Bolan said it is required at Final Site Plan not Preliminary. Engineer Risse said he recommends completeness at this time. Mr. Milkowski asked about getting more information on water usage which is a concern. Chairman MacQueen asked for a motion. Motion by Mr. Milkowski and seconded by Mr. Laul to deem the application complete and set a public hearing date.

Lebanon Township Planning Board

July 2, 2013

Page 2

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

Chairman MacQueen asked for a date. Ms. Glashoff offered August 6, 2013 at 7:00 p.m. The applicant agreed with date. Attorney Gallina announced that the Muller Toyota public hearing will take place on August 6, 2013 at 7:00 p.m. **Mr. Skidmore returned to the board at this time.**

APPLICATION TO DEEM COMPLETE W/REASONS FOR EXEMPTION FROM SITE PLAN:

Metro Network Services Block #9 Lot #8
Conditional Use/Cell Tower Sanitorium Road RC
(Completeness Letter from Engr. Risse Enclosed)

Attorney Constantine Stamos was present to represent Metro Network Services. Attorney Stamos said his clients are looking to collocate on an existing tower on Sanitorium Road. Attorney Stamos referred to the MLUL regarding exemption from Site Plan for co-locations on Cell Towers. Attorney Stamos said the only requirements for exemption from Site Plan are that the existing tower has been previously approved, that they will not increase the width or the height of the tower and the installation will not create any variances. Chairman MacQueen asked Engineer Risse for his comments. Engineer Risse said it appears that the applicant is exempt from site plan based on the information provided. Engineer Risse said that cell tower facilities and collocations are a conditional use in all Residential zones. This property is located in the RC zone. Since this is a conditional use, the applicant must satisfy all the standards for a conditional use. Per Engineer Risse's report dated June 11, 2013, the applicant can schedule a public hearing for the conditional use. Engineer Risse said this is the first application to come before the board since the amendment to the MLUL. Chairman MacQueen asked Attorney Gallina to explain this for the board. Attorney Gallina said the applicant is exempt from Site Plan Approval but has to give 3 reasons for the exemption. Those reasons are as follows: **1.** The wireless communication support structure shall be previously approved. **2a.** The proposed collocation shall not increase the overall height of the tower by more than 10% of the original height, **2b.** The width of the structure is not increased and **2c.** The square footage of the equipment compound will not be increased by greater than 2,500 square feet. **3.** The proposed collocation complies with the final approval of the tower along with all conditions and will not trigger variance relief. Attorney Gallina said if they can show they don't need Site Plan Approval then all they have to do is show they comply with the Conditional Use standards in the Cell Tower Ordinance. Chairman MacQueen asked if the applicant complies with the exemption. Attorney Gallina said there is a certain criteria that the applicant will need to show through their testimony. Planner Bolan said before deeming it complete, has the applicant show they are exempt from Site Plan Approval. Attorney Stamos had Engineer Michael Bohlinger sworn in to give testimony. Engineer Bohlinger went through the criteria for exemption at this time. Engineer Bohlinger noted that no variances are needed for the collocation. Mr. Milkowski asked about the location of the existing tower. Engineer Bohlinger said there are two towers on the site, one of which is the State Police Tower. The question was asked when the tower was built. Engineer Bollinger thought it was about 15 years ago. Attorney Gallina asked if it were the Planning Board who approved the Tower. Chairman MacQueen said no it was the Board of Adjustment and Ms. Glashoff said it was 20 years ago; it was the early 1990's. Chairman MacQueen asked the board if they were satisfied with the exemptions. The board and the professionals said yes.

Chairman MacQueen asked for a motion to deem complete along with the reasons for the exemption from Site Plan Approval. Motion by Ms. Bleck and seconded by Mr. Gerlich to deem complete with the reasons given for the exemption from Site Plan.

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

NEW BUSINESS:

Metro Network Services Block #9 Lot #8
90 White Street Off Sanitorium Road RC
New York, N.Y. 10013

PUBLIC HEARING Conditional Use for a Co-location of a Cell Tower

Attorney Gallina informed the board that the notices are in order and the board can proceed with the public hearing. The following items were marked into evidence: **A1-Taxes Paid, A2-Affadavit of Proof of Service, A3-Notice to the Property Owners & Utilities, A4-Certified List of Property Owners & Utilities, A5-POD Slips, A6-Notice in Newspaper, A7-Letter from H.C. Soil Conservation District dated June 18, 2013, A8-Letter from H.C. Planning Board dated June 10, 2013.**

Lebanon Township Planning Board
July 2, 2013
Page 3

Attorney Stamos thanked the board for allowing them to be heard following completeness. Attorney Stamos said his client is looking to collocate on the existing tower and with him this evening is Engineer Michael Bohlinger, RF Engineer and their Planner. At this time Engineer Bohlinger was sworn in to give testimony. Engineer Bohlinger referred to the Plan dated April 17, 2013 Sheet 2 of 2. On S1 there is a plan of the existing compound. The following was marked into evidence: **A9**-Plan prepared by Engineer Michael Bohlinger, dated March 26, 2013 and revised April 17, 2013 consisting of 8 pages. Engineer Bohlinger said inside the compound there are 2 existing communication shelters with 180' self supporting tower with a couple of concrete pads with equipment. There are 3 cellular carriers within the compound. Presently to the left side of the sheet S1 at the 145' level there are two existing 4' level dishes. The applicant would like to put 2 microwave dishes at a height of 80' on the tower and to install a 4' by 4' concrete pad inside the compound which will be a radio cabinet. There will be no noise and will only be visited once a month by a technician. There will be no increase in tower height or width. At the conclusion of Engineer Bohlinger testimony, Chairman MacQueen asked the board if they had questions of Engineer Bohlinger. The following board members had questions: Mr. Milkowski, Mr. Schmidt, Mr. McKee, Mr. MacQueen and Planner Bolan. When opened to the public there were no questions. The Radio Frequency Engineer Doug Haluza was sworn in. Engineer Haluza is the Chief Technology Officer of Metro Services. Engineer Haluza testified that the applicant would like to use this site as a microwave repeater site. **A10**-Topography map and Microwave routes east-west paths from Glen Gardner, N.J. Sheet 1. The applicant has similar dishes in Palmerton, Pa and Berkeley Heights, N.J. Engineer Haluza said there is no alternative technology available other than the location of the microwave dish antennae and they are in compliance with FCC standards for radiation emissions and because of the height very little signal would reach the ground. Also, it is over 10 meters above the ground so it is excluded from any FCC inquiry regarding emissions. Engineer Haluza said this site was selected because of the topography. Engineer Haluza went on to say that the Palmerton site and the Berkeley Heights site can not communicate with each other unless the Sanitorium site is included. At the conclusion of Engineer Haluza testimony, Chairman MacQueen asked if the board had any questions of the witness. The following board members asked questions: Mr. Weiler, Ms. Bleck, Mr. Schmidt, Mr. Milkowski, Mr. McKee and Mr. Skidmore. Chairman MacQueen opened the hearing to the public. There were no questions.

Planner David Konleback was sworn in to give testimony. Planner Konleback reviewed for the board the Conditional Use standards for Cell Towers in Section 400-15D. Planner Konleback stated that there is a need for the microwave dish collocation. An existing structure is being utilized and a new tower is not being proposed. Planner Konleback said that microwave technology is different than cellular technology because it is a point to point technology. Planner Konleback said this location is ideal because it is located on a mountain and not heavily populated. At the conclusion of the Planner's testimony, Chairman MacQueen asked if the board had any questions. Mr. Milkowski had a question. When open to the public for questions, there were none. Planner Bolan said the applicant has addressed the conditional use standards as stated in the ordinance. Chairman MacQueen opened the hearing to the public for statements and comments. There were none. Chairman MacQueen asked Attorney Stamos to give his summation at this time.

Chairman MacQueen asked for a motion to close the public hearing. Motion by Ms. Bleck and seconded by Mr. McKee to close the public portion of the hearing. Unanimously approved. The board deliberated and at the conclusion of the board's deliberation, motion by Mr. Piasecki and seconded by Mr. Gerlich to approve the conditional use to collocate two dish antennae at a height of 80' on an existing tower with the following conditions:

- a. The applicant shall obtain all other necessary approvals from any outside agencies having jurisdiction.
- b. The applicant shall pay all required fees and escrows in connection with the application.

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

Attorney Gallina will prepare the Resolution to be on the Agenda of August 6, 2013.

Chairman MacQueen announced that the board will take a recess at this time 8:15 p.m. When the board reconvened at 8:25 p.m. Chairman MacQueen announced the next application.

UNFINISHED BUSINESS:

Odins Raven, LLP 11 Litton Road Flemington, N.J. 08822	Block #51 Lots #14.07 & 19 Lilac Lane & Sharrer Road R 1½
--	--

CONTINUATION OF A PUBLIC HEARING 1 Lot Minor/Merger & Variances

Attorney Walt Wilson was present along with Engineer Wayne Ingram to continue with the application of Odins Raven. It was noted that Engineer Ingram was sworn in at the last meeting and will be continuing

Lebanon Township Planning Board
July 2, 2013
Page 4

with his testimony this evening. Attorney Wilson said since the last meeting the plans have been revised. The following was marked into evidence: **A9**-Sheet 2 of 5 revised June 8, 2013, prepared by Wayne Ingram, Engineering & Land Planning. Attorney Wilson said the only thing that wasn't changed on the plan was the rear yard setback for the in-ground pool which is still within the 50' rear yard setback. The revised plans eliminate the frontage variance for Lot #14.07. If the board doesn't want to grant a variance for the pool they will remove it. Engineer Ingram said the barbell shape of Lot #14.07 has been removed which opens up the back portion of lot #14.07 also, the proposed dwelling for lot #29 has been reduced. Engineer Ingram stated the lot sizes have not changed, lot #14.07 is still 1.58 acres and lot #19 is still 1.62 acres. There is a reduction in impervious coverage with the new design. The lots are conforming except for the pool setback of 36.3 instead of the required 50' setback for pools.

Engineer Ingrams noted the septic is located in a funky location and he only had 8 days to get the plans revised. They didn't have time to do more perc's. As shown the lot is conforming and they plan on doing additional testing higher in the lot. Regarding the footprint for the new dwelling, the house isn't going to be 2000 square feet, it is the total footprint for where the house would be located.

Chairman MacQueen asked Engineer Risse for his input regarding the testimony given. Engineer Risse said in reviewing the plans everything has been taken care of. Chairman MacQueen in referring to **A9** noted the 150' wetlands buffer and asked "do we know that this is correct"? Engineer Risse said that we need a LOI from DEP. Attorney Gallina asked if this would be needed before any building permits being issued. Engineer Risse said yes. Engineer Ingrams said the 150' buffer is the maximum buffer that would be required. Chairman MacQueen asked if the board had questions of the witness. Ms. Bleck said she went to the site and noted how saturated the area was, but would defer to Engineer Risse and Planner Bolan regarding the wetlands. Mr. Weiler asked how the Highlands weighs in on this. Engineer Ingram said they are not creating a new lot because both lots are existing. The board discussed this issue at length. Mr. Piasecki asked what the bases for lot 19 being an existing lot. Engineer Ingrams said in 1954 there was a residence on lot 19. Now there is only a slab and fireplace. Then in the 1970's the prior owner of lot 19 took land for the other side of the stream and deeded it to lot 14.07. Engineer Ingram referred to an application that came before the Planning Board back in 2009 with a similar situation where they took land from one lot to make the other lot more conforming.

Mr. Piasecki asked if they could build a house on the existing .45 lot. Engineer Ingram said yes but it would be very difficult but not impossible. Mr. Piasecki asked how they came up with their initial impervious coverage for lot 19. Engineer Ingram said the existing foundation and driveway is all that exist on that lot today. Mr. Piasecki asked the square footage of the foundation and the driveway. Engineer Ingram said about 1,100 sq. ft. for the foundation and 500 sq. ft. for the driveway. Mr. Piasecki asked what their limitation was going forward. Engineer Ingram said 10,800 sq. feet. They have to stay under that to be a minor project. Mr. Schmidt asked about the lines on the plan, 150' wetlands buffer and the 300' stream buffer and asked where these numbers came from. Engineer Ingram said they had a wetlands expert prepare the delineations and he helped in the preparation of the report that will go to DEP. Mr. Milkowski said he likes this layout better than the previous one. Chairman MacQueen asked if Planner Bolan had questions. Planner Bolan said on the sheet with the wetland a line table it shows 7 segments. A 150' buffer looks to be drawn and where line 1 segment meets line segment 2. Engineer Ingram said that is the outer extent of the 150' buffer and after line 2 the wetlands disappear and it becomes state open waters. Planner Bolan said the entire lot is within the 300' stream buffer and asked what can be done within that buffer. Engineer Ingram said there are a lot of permits that can be obtained working within a riparian buffer. Engineer Ingram said that the DEP regulations also provide for a "permit by rule" where an actual permit would not need to be applied for. Engineer Ingram said as long as they keep this a minor project there is no actual permit required. Mr. Piasecki asked if there was going to be a requirement going forward to maintain the wall. Mr. Piasecki said the wall is falling down. Engineer Ingram said he didn't think there was a permit they could get regarding the wall to do any work. A town could get a permit to do work but a private entity can't. Engineer Ingram said if that wall started to come down and wetlands developed the LOI would not have to be modified but everything would expire at the end of 5 years and a new LOI would have to be done. Mr. Piasecki asked what the distance was from the building site to the wall. Engineer Ingram said between 105' and 108'. Engineer Ingram said there are a lot of options.

Mr. Schmidt referred to the wall. There is a small dam that is incorporated into the stream wall. Engineer Ingram said there is a reservoir or a controlled lake with it's own regulated dam which is controlling out flow to the stream. Engineer Ingram said there are permits for removing a dam. Chairman MacQueen asked Engineer Ingram to run down the existing lot line for lot 19 as it exists today. Chairman MacQueen asked if they could build on that existing lot. Engineer Ingram said yes but it wouldn't be easy and it would be a small house. Chairman MacQueen said what scares him about this whole thing is that the wall is falling down and when it comes totally down it will move the wetlands line in towards the house and when someone purchases the house they will run into more and more problems and that he has a real problem with it. Attorney Gallina said that there could be wording in the deed about the environmental restrictions on the lot. Engineer Ingram said there are permits for repairs. Engineer Ingram agreed it is important having it in the deed. Chairman MacQueen said it is a must. Ms. Bleck asked about getting permits for repairs. Engineer Ingram said you can get permits to do repairs. Referring back to a comment made by Engineer Ingrams regarding the wall and repairs. Engineer Ingram said it is not their intent to make any repairs regarding the wall. There was more discussion on the wall, dam and the reservoir that is up stream.

Lebanon Township Planning Board
July 2, 2013
Page 5

Planner Bolan asked about the septic field in relation to lot line and to a dwelling. Engineer Ingram said 10' from a property line and 25' if there is a basement and 10' if it doesn't from a structure. Engineer Ingram said for a standard system they will need to do more soil logs. Engineer Ingram said he would like to see the septic higher up on the lot. Planner Bolan stated that he was looking a definitions in the ordinance and the line to the east on Lilac Lane becomes a rear yard setback of 50' not a 20' for side yard and what is shown as rear yard setback becomes a side yard setback. Because of the pool which requires 50' doesn't change anything and a variance would still be needed.

Chairman MacQueen opened the hearing up to the public for questions of the testimony given. The following people asked questions; Kathy Goracy asked several questions, Mr. Tarlow also of Lilac Lane had questions of the witness. Mr. Piasecki asked about the permit by rule concept. Engineer Risse said there are certain activities that you have to meet and there is a description in the regulations and you have to notify the DEP that you are proceeding under their permit by rule two weeks prior to starting the project. Mr. Tarlow asked if there are any inspections of the work that will be done. Engineer Risse did not know if that goes to the DEP enforcement people. Engineer Ingram responded to the question. Discussion on this issue continued. Mr. Piasecki asked if the permit by rule had a name. Engineer Ingrams said he would have to look into it because he wasn't sure. Mr. Piasecki asked if they have applied for a Highlands exemption. Engineer Ingram said they don't have too. Engineer Risse said the only gray area is the re-subdivision/lot line adjustment. Planner Bolan asked what exemption are they coming in under regarding the Highlands. The board continued to discuss the exemption issue at length.

At this point several adjoining property owners had additional questions of the witness: Kathy Goracy, Kevin Kuchova and Jay Weeks. Mr. Weeks noted there are bog turtles all over the area which are endangered species. At the conclusion of the board's questions and the public questions, Chairman MacQueen asked Attorney Wilson to give his summation. At the conclusion of the summation, motion by Mr. Gerlich and seconded by Mr. Milkowski to close the public portion of the hearing. Unanimously approved. The board deliberated at length. At the conclusion of the board's deliberation, motion by Mr. Gerlich and seconded by Mr. Weiler to approve the minor subdivision in order to perfect a boundary line adjustment with bulk variance relief for the in-ground pool on lot 14.07 with the following conditions:

- a. The applicant will obtain all other necessary approvals from all other outside agencies having jurisdiction.
- b. The applicant will pay all necessary fees and escrows in connection with the application.
- c. The applicant will submit appropriate subdivision deeds for review and approval by the Board Attorney and Board Engineer.
- d. The applicant will obtain a wetlands letter of interpretation line verification.
- e. The applicant will submit a lot development plan for review and approval by the Board Engineer prior to any building permit being issued.
- f. The applicant will obtain a DEP letter of determination, stating that the applicant is entitled to an exemption under "Exemption 2" of the Highlands Act.
- g. A conservation easement, described by metes and bounds description, consistent with the wetlands line will be included in the subdivision deeds.
- h. A copy of the subdivision plan shall be attached to the subdivision deeds showing the graphical delineation of the subdivision and the constrained areas.
- i. There shall be language in the subdivision deed for lot 19 that regarding the existing wall structure on lot 19, structural repairs are the responsibility of the owner of lot 19.

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

Mr. McKee suggested to Engineer Ingram to fence around the pool and cap the well. Other board members also suggested cutting the grass and cleaning up on the property. Engineer Ingram said they will take care of it.

Attorney Gallina will prepare the resolution to be on the agenda of August 6, 2013.

PRESENTATION OF BILLS & REPORT:

a. John Gallina, Esq.	\$1,232.50
b. Bayer/Risse Engrs.	\$2,000.00
Total:	\$3,232.50

Ms. Glashoff said with adding the additional vouchers from the Agenda Addendum of **\$3,432.00** it brings the grand total to **\$6,664.50**. Motion by Mr. Gerlich and seconded by Mr. Piasecki to approve the bills as amended. Unanimously approved.

**Lebanon Township Planning Board
July 2, 2013
Page 6**

CORRESPONDENCE:

OPEN TO THE PUBLIC: None

Being no further business to come before the board nor comments from the public, motion by Ms. Bleck and seconded by Mr. Piasecki to adjourn the meeting at 10:45 p.m. Unanimously approved.

CHAIRMAN GARY MACQUEEN

GAIL W. GLASHOFF, PLANNING BOARD CLERK