



**Lebanon Township Planning Board**  
**July 17, 2012**  
**Page 2**

When they had their offices at this building they had 10 employees. The septic was designed for an office building and the well was acceptable for the site. Mr. Ambielli said he did not have security guards or anyone who would stay over night. Mr. Ambielli said including this property he owned 150 acres. Mr. Ambielli said in 1999 they purchased property on the north side of Trimmer Road. It is zoned R5 and is used for farming. Mr. Ambielli said had purchased 60 acres and subdivided off 5 acres which he then sold to Mr. Devine. Mr. Ambielli noted his son owns property on Trimmer Road and his daughter owns property on Fawn Ridge. Attorney Caldwell asked over the time Mr. Ambielli has owned property in this location has there been any flooding. Mr. Ambielli answered yes and said flooding occurs on Trimmer Road to the east of the driveway on this property and then up to Route 513. At the other end of Trimmer Road it floods by the stream. Mr. Ambielli stated that you can not take Maple Lane around to the property because Maple Lane connects to Trimmer Road which also floods by the stream and the South Branch of the Raritan River floods more than it use to. Attorney Caldwell asked when the lots were subdivided. Mr. Ambielli said after zoning was established. Attorney Caldwell asked Mr. Ambielli to explain to the board why they have retained the services of himself and Planner Madden to oppose this application. Mr. Ambielli said that if this use is approved in the I5 zone it will open it up for more of this type of use in this zone. Also the property across the road is looking to lease space and this applicant could expand his use across the road. Mr. Ambielli said this is the wrong use at the wrong time.

At the conclusion of Mr. Ambielli testimony, Chairman MacQueen asked if the board had questions of the witness. Mr. Schmidt had questions regarding the flooding in that area. Mr. Skidmore asked if the building in question had ever flooded. Mr. Ambielli said no. Chairman MacQueen said when this building was built back in 1981 it received approvals for the septic, driveway, well, County and Lebanon Township Planning Board approval. Mr. Ambielli said yes. Engineer Risse referred to the driveway that was installed and asked why was it put so close to the stream that floods. Mr. Ambielli said at the time there wasn't a lot of flooding. Engineer Risse asked if the driveway was brought up closer to Route 513 would it bring it further away from the flooding. Mr. Ambielli said yes.

Chairman MacQueen opened the hearing to the public for questions of testimony by Mr. Ambielli. There was none. Attorney Tubman asked when the road floods does it affect properties and activities on Trimmer Road. Mr. Ambielli said yes. Attorney Tubman asked then are any of the other properties along Trimmer Road affected more then this property when it floods. Mr. Ambielli said no. Attorney Tubman asked if this applicant wanted to expand across the road, wouldn't they need to come back to the board for approvals. Mr. Ambielli said he didn't know. At the conclusion of the questions, Attorney Caldwell asked to have Planner Madden sworn in. Planner Madden said he had been the Planner for Lebanon Township many years ago. At present he has been employed by Maser & Associates for 10 years. Planner Madden said he has attended all the hearings on this application.

Planner Madden stated he reviewed the Lebanon Township Ordinances, the Master Plan and has also reviewed the entire site and exhibits. Planner Madden said he has been out to the site and the area surrounding sometime after the first hearing. Planner Madden said the applicant has applied for a Residential Treatment Facility and there is nothing in the Master Plan regarding this type of facility. The Master Plan only talks about uses in the I5 zone regarding public and institutional uses as Conditional Uses. Planner Madden said there is a reference book that Planners used which was written by Carl Lindbloom and Harvey Moskowitz and referenced definitions regarding public and institutional uses. Planner Madden then referred to the federal document called the North American Industrial Classification System which is a tool that is used by Planners when they want specific definitions of a use. There are two different types of uses, hospital & institutional uses and there are two specific definitions; one is #6221100 General Medical & Surgical Hospitals. This use is for general medical and surgical hospitals which are engaged in diagnostical medical treatment both surgical and non-surgical for inpatients for a wide variety of medical conditions. These establishments maintain inpatient beds and provide food services to meet their nutritional requirements. Planner Madden went on to read the entire definition. Planner Madden said the Residential Mental Health and Substance Abuse Facilities under #623220 which states as follows: These establishments primarily are engaged in providing residential care and treatment for patients with mental health and substance abuse illnesses. These establishments provide room & board, supervision and counseling services. Medical Services may be available at these establishments but are incidental to the counseling, mental rehabilitation and support services offered. Also, they can generally provide a wide range of social services in addition to counseling.

Attorney Caldwell asked Planner Madden if either of these definitions fell under what Dr. Odunlami has presented to the board. Planner Madden said it is his belief that neither one of these definitions fall under what Dr. Odunlami has proposed. Planner Madden said this application should be before the Board of Adjustment as a D1 Use Variance. Attorney Caldwell asked Planner Madden to explain why it should be before the Zoning Board. Planner Madden stated this is not an institutional use as stated in the Lebanon Township Zoning Ordinances and it is not a hospital. Planner Madden said he did not think that the average Planning Board member would think of this as a hospital. Planner Madden said it was inappropriate for this board to hear this application and was concerned they considered it a hospital. Attorney Caldwell said without prior notice the Planning Board heard this application on an informal basis back last October and made the decision that this was a conditional use and would go before the Planning Board. Planner Madden said there was no notification to the public regarding this informal application

## Lebanon Township Planning Board

July 17, 2012

Page 3

going before the board and the public didn't get the opportunity to voice their opinions. Planner Madden said it is up to the Zoning Officer to make the determination on which board this type of application should go. Planner Madden said there is no record in the file to show that the Zoning Officer had rendered a decision on this application. Also, there is no record in the file to suggest that the Zoning Officer had been solicited for his opinion regarding this application. Planner Madden said in the MLUL it is up to the Zoning Officer to make a decision on whether this is a permitted use, a conditional use or a non permitted use. Attorney Caldwell asked Planner Madden who's jurisdiction is it to render a decision regarding Interpretations, Planner Madden said it is the Board of Adjustment, quoting the section of the MLUL which is 40:55D.70b. Planner Madden said it is not the Planning Board's jurisdiction. Attorney Caldwell noted that the applicant said there weren't any inpatient facilities in Hunterdon County and asked Planner Madden if he had done research on this. Planner Madden said he did an internet search and found about 200 of these facilities in New Jersey. Attorney Caldwell asked Planner Madden where Dr. Odunlami other facilities are located and where do you usually find these types of facilities. Planner Madden said these types of facilities are usually found near and around hospitals. Dr. Odunlami has out patient facilities in Bridgewater, Brick Township, Lawrenceville and in Sumter, South Carolina. Attorney Caldwell asked Planner Madden what his opinion was of having an in patient facility in Lebanon Township. Planner Madden said this location is an inappropriate and it should be near a hospital, physicians and where Social Services can be utilized and offered Flemington as a more appropriate location then out in Lebanon Township on the fringe of the County. The patients that need this type of facility suffer from more than drug and alcohol abuse, they have a variety of physical and mental and life style problems that they need counseling help on. There is no public transportation for the patients.

Planner Madden went on to say it is the applicant's burden of proof to disapprove the impacts and he does not feel this facility is appropriate for the I5 zone. The I5 zone is the only viable zone in the Township and should only be used for industrial uses. Lebanon Township has not over zoned for industry like Clinton Township has done. It seems that the Industrial Zone is being used as a catch all for any use that finds an opportunity to pick up a vacant building at a bargain price. Business owners in the Industrial want to have compatible uses in that zone and not a multi bed residential facility next door who could be a potential complainer about noise, industrial activities, traffic, dust etc. Planner Madden said this facility is like having a hotel or a spa and these people are very sensitive with their treatment. The businesses that are there have been there for historically a long time. Planner Madden referred to the second sign on Trimmer Road that the applicant is proposing and has heard the testimony regarding the access off of Route 513 north and south on to Trimmer Road going down to the existing driveway. Attorney Caldwell asked Planner Madden if he has seen any other proposals for this property prior to Dr. Odunlami where a different type of access was proposed. Planner Madden said yes, one that was done by Scenic Pastures the current owner of the property which proposed a driveway much closer to Trimmer Road. Attorney Caldwell referred to testimony that was given by Attorney Tubman that the County would not allow access from the County Road on to this site. Planner Madden said he talked to Engineer Tom Matthews from the County regarding having a direct access off of Route 513. Mr. Matthews said when they have the opportunity to use a secondary road to minimize driveways off of a County Road that is their policy. Planner Madden said he asked Mr. Matthews if he knew Trimmer Road floods. The driveway gets flooded along with the intersection. Mr. Matthews said in that case they would consider access off of Route 513.

Attorney Caldwell referred to Exhibit **A9**. The red line outlines the property in question. The area shown in green is the wetlands; the orange/pale yellow is a 300' stream buffer. At this time, there was discussion on the entrance off of Route 513. Attorney Caldwell referred to having the entrance to the site off of Route 513 and exiting on to Trimmer Road and up to the intersection of Route 513. Planner Madden felt the County would be amenable to this. Planner Madden noted that it was not an easy intersection. Attorney Caldwell referred to Exhibit **A11** regarding the site improvements, trees and anything else around the building and would it become a problem if the board decided to go with the flow of entering off of Route 513 and existing on to Trimmer Road. Planner Madden said he didn't see a need for any site improvements being altered. Attorney Caldwell referred to **A08**. Planner Madden did not see any negative impact with having the entrance to the site off of Route 513 and existing on to Trimmer Road. Attorney Caldwell referred to **A13**. Planner Madden said the site distance is long so it wouldn't be a problem having the entrance off of Route 513. But did say you would have to have a gentle slope going down on to the property from Route 513. Attorney Caldwell then referred to **A20** which is the layout of the inside of the building and understands that the layout can change, but asked how many people based on the layout on **A20**, if every chair was filled how many people would their be on site. Planner Madden said between 38 and 65. Planner Madden said his figures are based on Staff of 5, 13 Clients and on visitors day an average of 2 visitors per clients, could be more. Attorney Caldwell asked if Planner Madden had ever seen a layout like this where bathrooms for the public were not included. Planner Madden said no. Planner Madden said the board should go out to the property and do a physical inspection of the property. Planner Madden said he feels this property is intensity used and every square inch of the building is being used and none of the requirements are being met. Planner Madden said this building is not appropriate for this type of use since there is no handicap access and the break room is on the mezzanine level. Planner Madden was asked by Attorney Caldwell to review the layout of the inside of the building. Planner Madden said this building has a lot of defects for this type of facility. Attorney Caldwell said that the applicant's engineer during testimony admitted he had never been involved in the design of this type of facility. Attorney Caldwell had the Court Stenographer read back the testimony of the applicant's engineer. Planner Madden said he was

**Lebanon Township Planning Board**  
**July 17, 2012**  
**Page 4**

taken back by the architect not the engineer who had never been involved in designing this type of facility. Planner Madden referred to the plan as being generic.

Attorney Caldwell referred to the adopted Administrative Code, Title A Chapter 42 with a manual of standards NJSA 26:2a-1 effective 1999 and revised since then. This code is applicable to this design and operation of this facility. Planner Madden said this is a very important document and definition and that the board should reject the hospital definition that Attorney Tubman has offered. There is a specific state definition for this specific use. At this time Planner Madden read into the record the definition. Attorney Gallina asked for the specific code they were referring too. Attorney Caldwell asked for a recess in order to find the code.

Chairman MacQueen announced the board will take a recess 8:20 p.m. When the board reconvened at 8:30 p.m. Planner Madden continued with his testimony. Attorney Caldwell referred to the NJAC 8:42a-1.3. Titled Definitions. Attorney Caldwell read into the record the definition of a Residential Substance Abuse Treatment Facility. Attorney Caldwell said the definition given by Attorney Tubman was for a hospital. Attorney Caldwell went on to say that the definition of a hospital doesn't fall under the conditional use standards in the ordinance and referred to NJSA 26:2BB5,6,7 & 14 Health & Vital Statistics. Attorney Caldwell noted on the checklist the waiver requested per Item #17 Aquifer Test & Analysis Report that 6 reports to be submitted in accordance to 330-31 including two copies of the laboratory analysis of the groundwater sample. The box was checked to be waived. Attorney Caldwell asked if Planner Madden recalled the testimony by Mr. Smith who addressed well information stating the well in the past was 25 gallons per minute and with the new regulations is now 13.6 gallons per minute. Planner Madden said under the Residential Treatment Facility Code it is 2 gallons of portable water per minute per bedroom. For 8 bedrooms it would be 16 gallons per minute that would be required and Mr. Smith said they are planning for 13.6 gallons per minute. Mr. Smith said historically the well has yielded 25 gallons per minute. Planner Madden said they should test the well to make sure not just for the water yield but also for the required sprinkle system and said they could exceed the amount depending on how many people are in the building at one time, so is the well adequate enough or do they need to do an aquifer test. Planner Madden said he would think the board would want assurances that the water supply is adequate and would require the applicant to do an aquifer test. The water supply would be more for this type of use than an industrial use. Attorney Caldwell said he wrote to Attorney Tubman to request access to the property to have a well test conducted at their expense and were denied access to the property by the applicant. Planner Madden concluded the board should reject the generic definition given by Attorney Tubman that this use is not a hospital use under the definition of the conditional use ordinance. Planner Madden said there are State and Federal authorities that differentiate hospital from substance abuse treatment facilities. Planner Madden read again into the record the definition of a hospital versus a residential substance abuse treatment facility. Planner Madden said the ordinance was never meant to include residential substance abuse treatment facilities. The board should also consider Section 400-11a for denying this application.

At the conclusion of Planner Madden's testimony, Chairman MacQueen asked if the board had questions of the witness. Mr. Milkowski when doing the water calculations how many beds were you using. Planner Madden said 8 bedrooms. Mr. Milkowski said he counted 7 bedrooms and asked Planner Madden to walk thru the number of people that this water usage has to handle. Planner Madden said based on their calculations: 5 staff, 13 clients (patients), 20 visitors which comes to 38. You also have 2 mental health counselors and the applicant has planned for 12 employees, 13 clients (patients) and 26 visitors which comes to 38 and including the 19 chairs in the conference room. Mr. Milkowski asked where the 19 people were coming from to fill those chairs. Planner Madden there is the potential for 19 people which will give you 65 on a peak day. Planner Madden using the applicants numbers it is 38 and using his numbers it is 65. Mr. Laul asked for the definition of a quasi public. Planner Madden referred to Harvey Moskowitz's definition: a use owned or operated by a religious or monastery institution providing education, cultural education religious types of programs. Those are non-profit. Mr. Schmidt asked if Planner Madden had any licensing in doctoring or psychiatry. Planner Madden said no. Mr. Schmidt said based on testimony that this use was not appropriate for this zone only industrial uses and that they would not want to have this type of use in the industrial zone. Mr. Schmidt asked if having loud noises, heavy trucks in and out of the site was better and asked if he had any concern for the residents in the area. Planner Madden said he was concerned for the industrial neighbors. Mr. Schmidt said per testimony that the board should deny this application out of respect for the neighbors. Planner Madden clarified his comment by saying he meant the neighbors being the existing and potential industrial neighbors. Mr. Schmidt said per Planner Madden's testimony that he didn't care about the residents in the immediate area. Planner Madden said his concern was for the industrial neighbors.

Ms. Bleck referred to the testimony Planner Madden gave regarding the County with the direct access off of Route 513. Planner Madden said he spoke with Assistant County Engineer Tom Mathews who said because of flooding the county would consider access off of Route 513 into the site. Ms. Bleck told Planner Madden that he said it would be an improvement to have access off of Route 513 into the facility and existing on to Trimmer Road. Planner Madden said that was an alternative. Ms. Bleck said there wouldn't be a need for a sign on Trimmer Road if the access was off of Route 513. Planner Madden said yes. Mr. Skidmore asked about the definition that Planner Madden gave for a hospital being surgical and medical and asked how many other different types of hospital are there. Planner Madden said there are psychiatric and substance abuse hospitals. Substance abuse which is for long term care for the chronically ill due to substance abuse. Planner Madden explained what all that entailed. Mr. Skidmore asked why

**Lebanon Township Planning Board**  
**July 17, 2012**  
**Page 5**

Planner Madden referred to medical and surgical hospitals out of a list of hospital definitions instead of the ones that pertain to substance abuse. Planner Madden said that was a good point. Planner Madden said that board members would think of a hospital as medical and surgical not substance abuse. Mr. Skidmore said it would be fair for the board to decide after hearing all the definitions and then decide what meets the definition of a hospital. Mr. Skidmore went on to say he was looking to see if there was any bias or misrepresentation. Planner Madden said this is a specific type of facility and doesn't meet the definition of a hospital type for a planning community. Planner Madden said this board needs to concentrate on, that it's not this broad definition of a hospital. Mr. Schmidt referred to the Site Plan for the interior of the building which is a preliminary and whether this application is before the Planning Board or Board of Adjustment, the applicant doesn't have to stay with the interior design even after approval as long as it complies with the BOCA codes. Planner Madden said yes the applicant could redesign the interior and once approved as a conditional use could do whatever they wanted.

Chairman MacQueen said that as a Planner, Mr. Madden spent a lot of time on the interior of the building and understood why since he was trying to show the board the potential for the amount of people that could be there on any given day and the potential that there could be a lot less people there on any given day. But as a professional Planner, Chairman MacQueen said he was surprised that Planner Madden didn't address the parking outside, the screening, any of the landscaping, the generator or the garbage pickup that people have complained about. The board is also concerned about the residential neighbors since this is a mixed zone. Chairman MacQueen stated he was very concerned that these items weren't address since Planner Madden said he has been here for all the meetings and has listened to all the resident's complaints. Planner Madden asked if he was referring to the parking being adequate and the landscaping being adequate. Planner Madden said he felt the landscaping plan was adequate but was confused because the plans didn't show any fencing. Planner Madden said the residents raised the issue of fencing but that the landscaping is adequate and the parking is adequate for the parking demand but no for peak demand. Chairman MacQueen referred to the outside lighting and security lighting and was surprised that Planner Madden didn't address these issues since the residential residents were concerned. Planner Madden said the residential neighbors spoke for themselves.

Attorney Gallina noted in Planner Madden's testimony that the applicant should be going to the Zoning Officer first to see if a use is permitted and will make the decision which board the applicant should go before. Attorney Gallina said it is not statutory and the applicant can apply to the board they feel they belong in front of. There is no requirement that an applicant has to go to the Zoning Officer first before applying to a board. Planner Madden said it is the usual procedure to go to the Zoning Officer first. Attorney Gallina said in the MLUL the applicant doesn't have to get a denial from the Zoning Officer before applying to a board. Planner Madden said the Planning Board doesn't make the determination as to which board an applicant goes before. Attorney Gallina said it is not a requirement that an applicant go to the Zoning Officer first. Planner Madden said he did not know if it is a requirement. Attorney Gallina said even thou the Planning Board doesn't have the statutory authority to do an interpretation, isn't it a fact that Planning Boards are often put in a position to interpret the meaning of an ordinance regarding an application. Planner Madden said no not a zoning ordinance but a site plan ordinance yes. Planner Madden said that is his experience. Attorney Gallina said per Planner Madden's interpretation that this use would have a negative affect in this zone based on Section 400-11a of the Lebanon Township Conditional Use Ordinance. Planner Madden said yes. Attorney Gallina said to Planner Madden didn't he argue in the litigation that section of the ordinance is unconstitutional. Planner Madden said yes. Planner Madden said if the board is going to deem this a permitted conditional use per the ordinance then per Planner Madden he is going to apply this section of the ordinance to state his Planning opinion to being inappropriate to it.

Attorney Gallina asked if Section 400-11a is constitutional or unconstitutional. Planner Madden said it is unconstitutional under New Jersey law. Attorney Gallina then said this board shouldn't be referring to that section of the ordinance regarding this application. Planner Madden said nor should this board be considering this application as a conditional use. Attorney Gallina then referred to the water flow and asked if this would be determined by an outside agency for approval and not this board. Planner Madden said yes. Planner Madden asked if this board wants to introduce a residential use in an industrial zone of this scale and said it goes to a site plan concern and whether this site can accommodate this use and demands with this number of people. Planner Madden went on to say this board should require an aquifer test. Attorney Gallina said aquifer tests are usually done with subdivisions to make sure the water supply is adequate. Attorney Caldwell said they are challenging the fact that the waiver for Item #17 on the checklist should not have been granted regarding the aquifer test. Attorney Gallina asked as far as water output isn't it up to another outside agency to evaluate it. Attorney Caldwell said no, since it is on the checklist it is a matter of proof that the board is entitled to receive as part of the application package. Attorney Caldwell said your governing body has allocated this item on the checklist as a requirement because they care about how much water was coming out of the ground. If they didn't care they wouldn't have put it on the checklist. Attorney Caldwell said the MLUL does not make it mandatory for boards to get outside agency approvals. It is up to the board to decide what outside agencies they want approvals from. Attorney Gallina asked what if the board felt it was an issue to be addressed by the County Board of Health. Attorney Caldwell said there are standards in the ordinance just like there are conditional use standards in the ordinance that the Board will have to apply. Attorney Caldwell said they don't care about the lighting and the trees because none of it will make or break this application. The only thing that will make or break this application is whether it is a conditional use and what goes on inside the building can be configured is not directly what happens inside the box.

**Lebanon Township Planning Board**  
**July 17, 2012**  
**Page 6**

Attorney Gallina asked Planner Madden if it was his testimony under the ordinance that a hospital or institutional use should be a non-profit or quasi public institution. Planner Madden said yes. Attorney Gallina read the definition into the record. Attorney Gallina asked Planner Madden if that was his testimony that a hospital would have to be a non-profit, profit or quasi public institution. Planner Madden said yes that was his testimony. At this time, Chairman MacQueen announced that the board will take a short break at 9:20 p.m. When the board reconvened at 9:26 p.m. Planner Bolan asked Planner Madden about the North American Industrial Classification System and who prepares it. Planner Madden's answer was not picked up by the microphone. Planner Bolan asked if it is used in a regulatory sense. Planner Madden's answer was not picked up by the microphone. Planner Bolan then asked how is it used. Planner Madden answer was not picked up by the microphone. At this point the microphone was turned on. Planner Bolan asked about the sub-sections and how are they used referring to 6.2, 6.2.1 and 6.22. Per Planner Madden the group is under Medical Services.

Planner Bolan referred to Informal hearings by a board. Planner Bolan asked if an applicant requests an informal hearing, isn't the board required to have informal hearing. Planner Madden said no. Planner Bolan asked Planner Madden to refer to MLUL 40:55D10.1 Planner Madden said it is only required if it is in the ordinance. Planner Bolan read into the record "the Planning Board shall grant an informal review of a concept plan for development for which someone wants to make application. Attorney Caldwell said not for a definition. Planner Bolan responded saying it doesn't say anything about definitions or any other standards. It only says that a person is only making an application for an informal review. Attorney Caldwell noted that it also refers to the standards that are in the ordinance and in one section it talks about use and who has the right to determine an appropriate use. Planner Bolan responded by saying don't Planning Board always make that determination if a use is appropriate. Attorney Caldwell said not always. Planner Bolan said don't they frequently. Attorney Caldwell said a well crafted ordinance comes from the municipal body and said no.

Attorney Caldwell stated that the Planning Board is taking their position to task over every little thing and giving a complete pass to the applicant. Attorney Gallina interjected saying the questions are for Planner Madden. Planner Bolan said it sounds like Attorney Caldwell is testifying and all he is trying to do is ask questions of Planner Madden's testimony. Planner Madden said at a concept plan the use is never discussed, it is only to discuss design issues. Planner Madden said the use is determined by the Zoning Officer and has made a determination based on fact that the use is permitted. Planner Madden said the use is not to be discussed during a concept plan meeting for an informal review. Planner Bolan said he disagrees and an informal is non binding. Attorney Caldwell said the first thing the board should have done is decided if they had jurisdiction. Attorney Caldwell said the board should not have had 5 nights of hearings on the details of Site Plan until they decided. Planner Bolan said maybe they have decided. Attorney Caldwell said they haven't decided based on a publicly based public hearing. Attorney Caldwell asked if Planner Bolan was suggesting that the Board has the power to decide a use issue whether or not something in the ordinance is conducted outside the jurisdiction of the Open Public Meetings Act. Planner Bolan asked Planner Madden if he was familiar with the ordinance and asked him what the other uses that are permitted in the Industrial Zone. Planner Bolan noted under Industrial and Manufacturing use and asked if the board makes a determination as to whether a specific use fits into that definition. Attorney Gallina said what is permitted in the Industrial Zone is on page 400:33 &34. Planner Madden recited the list of uses in the Industrial Zone. Planner Bolan asked, don't all those uses involve some determination by the board whether a specific use meets the definition. Attorney Caldwell said you should start with the definition section of the ordinance. Attorney Gallina and Chairman MacQueen told Attorney Caldwell to let Planner Madden answer the question. Attorney Caldwell said the question being asked is invalid and objected to the question. Planner Bolan said per your statement that the whole ordinance is invalid for Industrial & Manufacturing Uses. Attorney Caldwell said there are portions of the ordinance that are not enforceable because they are not properly constructed. Attorney Caldwell said it is the Zoning Officer who would make that determination per the MLUL. If the Zoning Officer can't make a determination then the applicant has the choice of going to the Zoning Board for an Interpretation of the ordinance. If the Zoning Officer deems the use is permitted then the applicant would apply to the Planning Board. Attorney Gallina said he didn't agree with Attorney Caldwell on this issue.

Planner Bolan asked Planner Madden about the Internet review of other treatment facilities about 200 in the State and said they are in and around hospitals. Planner Madden said a lot of them are in and around hospitals. Planner Madden said he found that none of the for-profit ones were in Industrial Districts. Planner Madden said the majority of these facilities are non-profit. Planner Madden said he found that for the most part these facilities were near public transportation for the benefit of the families and also near hospitals for all the other services that they would need. Planner Bolan asked if Planner Madden was familiar with any of the non for profit facilities. Planner Madden said yes he was familiar with Carrier Clinic and it is a non-profit. Planner Bolan at this time asked about the testimony regarding the driveway entrance from Route 513 and from testimony would it be just entering or entering and existing. Planner Madden said you could enter off of Route 513 and off of Trimmer Road with having the exist up closer to Route 513 to stay away from the flood plain area. Planner Bolan asked Planner Madden about his discussion with the County Engineers Office. Planner Madden said his reason for contacting the county was to find out if there is an absolute prohibition with having access off of a county road. At this point Attorney Caldwell interjected and gave his opinion. Planner Bolan asked if he could continue with his question for Planner Madden. Planner Bolan asked regarding good planning, is it better to have access off

**Lebanon Township Planning Board**  
**July 17, 2012**  
**Page 7**

a lower intensity road versus a higher intensity road. Planner Madden said a lower intensity road. Planner Bolan said there has been some confusion regarding the architectural plans. Aren't bathroom facilities part of the BOCA code. Planner Madden said yes. There was also discussion on access and couldn't there be ramps. Planner Madden said he guessed so. Planner Bolan asked for the date on the revised plan, which says November 2, 2011. Planner Bolan noted that Planner Madden has been here for all the hearings and that the plan was not submitted with the application. The one submitted with the application is dated November 11, 2011. Attorney Caldwell said they reviewed what was on file in the Planning Board Office. Planner Bolan said they had the opportunity to review the file and the floor plan was in the file. Planner Bolan said he represents the public at large besides representing the Planning Board. At this point the public called out loudly disagreeing with Planner Bolan's comment. Chairman MacQueen called for order and for everyone to be quite.

Planner Bolan referred to Kevin Smith's testimony regarding the well testing issue. Mr. Smith testified that it was 25 gallons per minute and said to Planner Madden that he testified to 2 gallons per minute times 7 bedrooms comes to 14 gallons per minute. Attorney Caldwell interjected and was reminded that Planner Madden is giving the testimony. Planner Madden said the board should not accept the old well test of 25 gallons. Planner Madden said we don't know if that number is still valid. Planner Bolan said the board can require a new test as a condition of approval. Planner Madden said if the board is going to approve this application, they will need to be reassured the usage is adequate since you are going from light industrial to a residential use. Planner Bolan said this can be as a condition and if the condition is not met the application doesn't go forward. Planner Bolan referred to the definition of hospital that was submitted by Attorney Tubman and asked Planner Madden if this use meets that definition. Planner Madden asked to see the definition. Planner Madden said looking at this definition it is broad and that is what they object too. The board needs to look at this definition because it is so broad that it is meaningless. Planner Bolan asked if residential uses are permitted in the Industrial Zone. Planner Madden said existing residential. Planner Bolan said aren't proposed residential uses. Planner Madden checked the ordinance. Attorney Gallina said Section 400:34 also Section 400:-9c. Planner Madden read the definition: dwelling units are a conditional use in the I5 zone.

At the conclusion of Planner Bolan's questions of Planner Madden, Chairman MacQueen asked Attorney Caldwell if he had any more witness. Attorney Caldwell said no. Chairman MacQueen announced that they will stop at this point and when the board meets again they will continue with Attorney Tubman's questions of Planner Madden. Ms. Glashoff stated the next date is July 23<sup>rd</sup>. Attorney Gallina announced that this application will be continued to Monday July 23<sup>rd</sup> at 7:00 p.m. here at the Woodglen School and no further notice will be given.

**PRESENTATION OF BILLS & BILL REPORT:**

a. John Gallina, Esq.	\$ 942.50
b. Hunterdon Cty P/Z Admin (Dues)	\$ 20.00
c. Gail Glashoff – Staples Supplies	\$ 77.08
<b>Total:</b>	<b>\$1,039.58</b>

Chairman MacQueen asked for the presentation of bills. Motion by Ms. Bleck and seconded by Mr. Skidmore to approve the bills for payment. Unanimously approved.

**CORRESPONDENCE:**

- a. Law of the Land Article
- b. Ltr from Highlands Council Executive Director

**OPEN TO THE PUBLIC**

Someone from the public asked about additional dates for the hearings.

Being no further business to come before the board, nor comments from the public, motion by Ms. Bleck and seconded by Mr. Rich to adjourn the meeting at 9:55 p.m. Unanimously approved.

---

**CHAIRMAN GARY MACQUEEN**

---

**GAIL W. GLASHOFF, PLANNING BOARD CLERK**