

## REGULAR MEETING

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

**January 18, 2011**

The 835<sup>th</sup> Regular Meeting of the Lebanon Township Planning Board was called to order at 7:05 p.m. by Chairman Gary MacQueen. Present were: Mr. Milkowski, Mr. Schmidt, Mr. Gerlich, Mr. Piasecki, Ms. Bleck, Mr. Weiler, Mr. Piazza, Attorney Gallina, Planner Bolan and Engineer Risse. **Excused:** Mr. Rich

In compliance with the "Open Public Meetings Act" notice is hereby given that the Lebanon Township Planning Board has scheduled a special meeting on Tuesday January 18, 2011 at 7:00 p.m. prevailing time in the Main Meeting room in the Municipal Building. Notice of this meeting was published in the Hunterdon Review on December 29, 2010 and in the Hunterdon County Democrat on December 30, 2010. Copies of the agenda were 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 January 12, 2011.

### **ADOPT PROFESSIONAL CONTRACTS:**

- a. Jim Kyle, PP (Alternate Planner)
- b. Jess Symonds, PE (Alternate Engineer)

Ms. Glashoff informed the board that she only received Planner Kyle's contract. The rates are the same as last year. She hopes to have Engineer Symonds contract on the agenda for February 1, 2011. Motion by Ms. Bleck and seconded by Mr. Piasecki to adopt the professional contract of Planner Kyle as Alternate Planner. Unanimously approved.

### **ANNOUNCEMENT:**

Chairman MacQueen announced that Mr. James Watt from the DEP will be at the Municipal Building on Tuesday January 25, 2011 at 9:30 a.m. for a discussion on Flood Plain Management and Compliance. Please let Ms. Glashoff know if you are interested in attending.

### **ITEMS FOR DISCUSSION:**

#### **a. Alternative Energy Ordinance**

Chairman MacQueen announced that the board will hear the comments and suggestions from the public first before the board has their discussion. At this time, Chairman MacQueen opened the meeting to the public. Nancy Lawler a member of the Environmental Commission said she appreciated the additions that were made in the ordinance regarding solar and asked under the small wind portion which states the blades will be no closer than 12' to the ground level, does it refer to all small systems. Planner Bolan said yes. Chairman MacQueen said they were concerned if a child or adult walked under the blades, they didn't want anyone to get injured. Ms. Lawler said she would have liked the wood burning furnaces under a separate ordinance. Mr. Eric Henriksen said he was glad the board added the small wind systems to the ordinance but he is not happy with the wind mill being able to have a height of 120' with it being able to be close to his property. Mr. Henriksen expressed concern since the width of the blades will be 69' from one end to the other based on the specs that he took off the system on a 100 kilowatt system. Mr. Henriksen suggested to the board if they would consider 100' and 80 kilowatts. Mr. Victor Hoffman said his concern is with the wood burning stoves because of the 180' distance and asked how many residents were being excluded because of the distance and would not be able to have a wood burning stove. Planner Bolan said we have 2100 lots. Mr. Hoffman said 25% would be excluded and thought that was a high number. Mr. Hoffman asked why it had to be 180' setback. Chairman MacQueen said to keep the smoke away from the neighbors. Mr. Hoffman said a 12' high chimney would keep the smoke away from the neighbors and stated he doesn't have a problem with his neighbors and he has a 12' high chimney. Mr. Hoffman also noted with the size of his lot he is not eligible to have a wood burning stove. Mr. Hoffman suggested that the setback should be 90' instead of 180'.

Chairman MacQueen noted up in northern New York State where they have more open space, they require an 18' high chimney. They use to require 12' and have now gone to 18'. Also they will be requiring within the next 10 years that everyone with an existing stove will have to upgrade to a catalytic stove. Mr. Hoffman said we are being over run by the government. Chairman MacQueen said this is being proposed in New York State. When Mr. Hoffman noted that he has a 12' stack which is adequate, Chairman MacQueen asked how do you support the stack? Mr. Hoffman said he has guide wires. Mr. Piazza said we tried to come up with a number and if we eliminate the distance and have zero, then we will be offending 25%-50% of the people who don't want to smell smoke. Mr. Piazza said the board spent a lot of time coming up with a number, you can't please everyone. Mr. Hoffman said he would like the board to reconsider the 180' number. When asked what number he would like he said zero. The board continued to discuss this issue with Mr. Hoffman. Laurie Hoffman asked if there have been a lot of complaints regarding the wood burning furnaces, Attorney Gallina said we have received correspondence from the County Health Department regarding violations. Chairman MacQueen said if you have a neighbor who doesn't like you, he can turn you in to the County Board of Health and if there is visible smoke every 3 minutes for 30 minutes you can be fined. Planner Bolan noted that these furnaces are not permitted and what this will be doing is permitting them. Ms. Hoffman said the 180' is an arbitrary number. The board disagreed. The next person to comment was Marc Laul. Mr. Laul stated he was glad the board changed the lot area. Mr. Laul felt this township isn't conducive to wind mills. Mr. Laul asked how the Fire

**Lebanon Township Planning Board**  
**January 18, 2011**  
**Page 2**

Department will know if you have a wind mill or solar panels since it is a secondary power source. The power can be down, but since this is a secondary source it will still be in use and someone could get electrocuted. Mr. Laul said you can not turn off solar power and some fire department will not respond if there is solar power in place, because you can not turn it off. Mr. Laul referred to having a tracker system. This way you can have a disconnect and then you know it is safe to go inside. Mr. Laul said this needs to be addressed since it is a safety issue.

Mr. Laul went on to say that he works in energy efficiency and energy is becoming scarce. We only have 50 years of nautical material left. We will run out of oil in 4 years which is a very conservative number. That's after going to \$10.00 per gallon. Mr. Laul said you can have either a Phase I or Phase II wood boiler. The Phase II wood boilers are a third less in smoke than your wood stoves. You can get a \$1500.00 tax credit for installing one. Mr. Laul noted that 5 colleges have converted their entire campuses to biomass and are now saving millions of dollars. At the conclusion of Mr. Laul's comments, Mr. Piazza asked about the existing stoves that people have and if they have to be replaced are they grandfathered when they have to put in a new stove. Attorney Gallina said not generally. If they are in violation of the ordinance and don't meet the standards in the ordinance then they would have to get variance relief. Attorney Gallina said if you are replacing the entire structure since it was non-conforming you will need to get a variance. If you are only replacing parts then no you don't need a variance. Mr. Schmidt asked if the wording could be the same as with a house trailer stating if you replace it with the same size you don't need a variance, if it is larger than the existing then you would need a variance.

Mr. Schmidt referred to the safety with the solar power and said he had gone to a seminar and there was someone there from Donaldson Farm and when you are hooked to the grid once power goes off at the grid then your power is off. Mr. Laul said it depends, you can have two different types of installs, one that is driven by the power grid and the power company owns it and you buy it back from them or if you personally buy it and you personally install it then you can power it as a private resident. You would have a different meter at your home which works as a check valve. Mr. Laul said the line is live until it gets down to the meter. Regardless of which one you have it is still a live install down to the converter and then to the meter.

Anthony Casale said he agreed with everything Mr. Laul said. Mr. Casale thanked the board for all the revisions even though he didn't agree with all of them. Mr. Casale said he would rather see a separate ordinance for the wood burning furnaces and disagreed with the comment that wood burning boilers are not allowed in the Township because applications have been made to the Board of Adjustment and the board determined that wood burning stoves are a customary accessory use in the Township even though it is not in the zoning ordinance book. Attorney Gallina said if it isn't allowed then it is prohibited. Attorney Gallina said that they only had one application before the zoning board which was an appeal and it was only limited to that application per the facts that were presented in that application. Attorney Gallina noted that the board did not make a generalization. Mr. Casale asked what the concerns were that solar and wind mills with the abandonment section of the ordinance. Mr. Casale mentioned a few other items he was concerned with.

Mr. Lyle Garcia was the next person to make comments on the ordinance. Mr. Garcia commended the board for the 8 changes that were made to the ordinance since the last meeting. Mr. Garcia also asked about the abandonment clause in the ordinance and wanted to know why it was needed. He also felt there were too many restrictions in the ordinance. Mr. Garcia said he was looking at having either wind or geothermal and noted that geothermal was not mentioned in the ordinance. Regarding setbacks for the outdoor stoves and wanted to know what the manufacturer recommends. Mr. Garcia stated that he didn't think the manufacturer would have something that wasn't safe and didn't think a manufacturer would recommend 180' setback. Mr. Garcia said he received from the Tax Assessor data by count of the properties in the Township which show 500 properties under 1 acre out of 2600. There are another 636 properties 2 acres or less. 40%-50% of the properties are 2 acres or less and with 180' setback and almost half of the people in the Township would have a problem or make it impossible for someone to have a wood burning furnace. Mr. Garcia took issue with the fact that the ordinance had not been made available to the public ahead of time. Mr. Garcia asked about having the information in the newsletter. Ms. Glashoff said that the newsletter only comes out quarterly and that the agenda and the minutes once approved are posted on the Planning Board's section on the Township's website. Mr. Garcia thanked the board for hearing his comments. Mr. Locker said he has been coming to meetings along with Nancy Darois and knows how much time the board has spent on this ordinance.

At this time, Chairman MacQueen announced that the public portion of the meeting is closed. Mr. Schmidt referred to the color of wind mills and said he called a few manufacturers and asked if you can get any color you want. They all said no, one does earth tones and the other does metallic galvanized. You can't order from a manufacturer any color you want. Mr. Schmidt said there was a lot of discussion regarding the wood burning furnaces and being able to burn year round and he was one that didn't want year round burning. Mr. Schmidt in an area like Bunnvale where the lots are a quarter acre in size and every third lot had an outdoor wood burning furnace, in summer when it is hot you would create a smoke screen. Some people have said their neighbors don't have a problem with the burning but you never know who your neighbors will be. We have to be considerate of everyone. Mr. Schmidt referred to the setbacks with the

**Lebanon Township Planning Board**  
**January 18, 2011**  
**Page 3**

wind mills and said if a wind mill fell, you can't have it falling on your neighbor's property. Mr. Gerlich said the board has worked hard and long on this ordinance and feels the board has done a good job and with the changes that were made make this ordinance even better. Mr. Piasecki said there has been a lot of effort and compromise put into this ordinance. Mr. Piasecki said he agreed with the comments made by Mr. Henriksen. Mr. Piasecki felt the 180' setback was a compromise from what originally had been suggested during the board's discussions. Also, the setback being proposed was a fair one. Mr. Piasecki said he would like to know more about the issue safety with shutting off power with the solar and he agrees that wood boilers should not be allowed to operate all year long. Ms. Bleck agreed there has been a lot of effort into putting this ordinance together along with many compromises among the board members. Ms. Bleck said she was glad that there will be a grandfathering clause in the ordinance but if a resident needed a new burner they wouldn't be protected by the grandfathering clause. Mr. Weiler said there was a lot of compromising amongst the board with some members not being happy and was also glad the grandfathering clause will be in the ordinance. Mr. Piazza stated it was important to have the 180 foot distance with the wood burning furnaces and he likes the grandfathering clause but would like it to cover even when you have to replace the boiler. Mr. Milkowski said he understands the board has been working on this ordinance for a long time but the board is so close, don't stop now.

Chairman MacQueen thanked everyone for coming to the meeting this evening and giving their comments and thoughts on this ordinance. Chairman MacQueen said that a couple of years ago the Zoning Officer spoke to him and Chairman Terzuolo from the Zoning Board on the issue of wood burning furnaces. Chairman MacQueen said they set up sub-committees to work on Home Occupations and Alternative Energy. The committees consisted of members from the Planning Board and Zoning Board along with the Planner and Zoning Officer. Chairman MacQueen stated at one point they were discussing 5 acres and 200 foot setbacks if not more. Chairman MacQueen said the committee on Alternative Energy met with some boiler people. One person told the committee if you want the ultimate heating, environmentally friendly boiler you put up a 35' chimney. Most of the boiler recommendations were for 12'. The board stayed with 12' because they thought it was a good common sense approach. The new boilers are very efficient. Chairman MacQueen referred to the person who came before the Zoning Board and was very knowledgeable on the subject. Planner Bolan said she was able to comply with this ordinance and agreed not to use it from April 30<sup>th</sup> to October 1<sup>st</sup>. Chairman MacQueen said there were many complaints when she would start up the boiler because of the smoke and noted she was in compliance.

Mr. Piazza said there are members on the board that have a problem with the grandfathering not covering existing boilers if they have to be replaced and he would like to see that changed. Mr. Piazza said he would not be able to vote in favor otherwise. Attorney Gallina said you would have to have some specialized wording in the ordinance to cover it. Planner Bolan said it would have to be in the same location as the existing boiler when replacing it. During the discussion there was concern with the setbacks, Mr. Milkowski suggested that as long as they don't go any closer to the property line it won't be a problem. The board continued with their lengthy discussion, Mr. Gerlich said there is still the concern with the solar panels with what Mr. Laul said that you can't shut them off. We should consider having something in the ordinance that someone with solar has a sign stating they have solar so when the Fire Department comes they are aware of the solar panels for safety reasons. The codes don't address this issue at the present time. Since there were a few people in the public that wanted to make a comment, Chairman MacQueen asked for a motion to reopen to the public. Motion by Mr. Piazza and seconded by Ms. Bleck to re-open the public portion of the meeting.

<b>ROLL CALL</b>	<b>Yes:</b> Mr. Milkowski	Ms. Bleck	<b>No:</b> Mr. Gerlich	<b>Absent:</b> Mr. Rich
	Mr. Schmidt	Mr. Piazza	Mr. Piasecki	
	Mr. MacQueen	Mr. Weiler		

Mr. Wunder said he agreed with Mr. Piazza regarding the grandfathering for the boilers and was glad the board would have it in the ordinance. Mr. Hoffman asked if you replace your boiler and it is bigger than the existing one will you have to go to the Zoning Board. Chairman MacQueen said Attorney Gallina and Planner Bolan will work on the wording so you won't have too. The ordinance will come back to the Planning Board at their next meeting on February 1<sup>st</sup> before going to the Township Committee. Mr. Gerlich explained to the public the process regarding ordinances that come from the Planning Board. Mr. Casale had a comment. At the conclusion of the public comments, motion by Ms. Bleck and seconded by Mr. Piasecki to close the public portion of the meeting. Unanimously approved.

At the conclusion of the board's discussion, Planner Bolan and Attorney Gallina will work on the wording for the grandfathering along with any other revisions to the ordinance and have it ready for the next meeting on February 1<sup>st</sup>. Mr. Piazza asked that the committee get a copy of the revised ordinance ahead of time before it officially goes to the Township Committee for Introduction. Ms. Glashoff said once she receives the revised ordinance she will give copies to the Committee. Also, Ms. Glashoff asked the public present to contact her mid week before the next meeting regarding getting a copy of the revised ordinance.

**Lebanon Township Planning Board  
January 18, 2011  
Page 4**

Ms Glashoff said the following bills are from the Agenda Addendum that was handed out this evening to the board.

**PRESENTATION OF BILLS & REPORT:**

- |                       |                   |
|-----------------------|-------------------|
| a. John Gallina, Esq. | \$ 840.00         |
| b. Bayer/Risse Engrs. | \$ 478.00         |
| <b>Total:</b>         | <b>\$1,318.00</b> |

Motion by Mr. Gerlich and seconded by Mr. Weiler to approve the bills as presented. Unanimously approved.

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 9:05 p.m. Unanimously approved.

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**CHAIRMAN GARY MACQUEEN**

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