

REGULAR MEETING

Lebanon Township Planning Board
Municipal Bldg 530 West Hill Road Glen Gardner, N.J. 08826

April 6, 2010

The Lebanon Township Planning Board was called to order at 7:02 p.m. by Chairman Gary MacQueen. Present were: Mr. Weeks, Mr. Schmidt, Mr. Gerlich, Mr. Piasecki, Mr. Rich, Ms. Bleck, Mr. Piazza, Mr. Weiler, Attorney Gallina and Planner Bolan. **Excused:** Engineer Risse

This meeting was noticed in the "Annual Meeting Notice Schedule" adopted by this board on January 12, 2010 and 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 March 30, 2010.

PRESENTATION OF MINUTES: February 2, 2010 Regular Meeting

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

ITEMS FOR DISCUSSION:

a. COAH – Planner Bolan

Planner Bolan said this is regarding the Housing Plan which was due on March 1st to the Highlands Council and mailed to the board on March 12th. It is the same as the memo the board discussed at the last meeting in February. The growth share obligation under the COAH regulations which is based on the projected growth or growth that has occurred since 2004 and projected to 2018 which is 35 affordable units. Under the Highlands it was 11 affordable units. The Township opted for the Highlands number. Planner Bolan said our current obligation accordingly to COAH which he feels this is wrong is 6+ units and he thinks is 7+ units. Regardless it is 11 affordable units. This number is based on real growth. If you don't grow you can't meet the obligation. We have at this time 31 CO's which were issued between 2004 and 2008. The Highlands divided it by 5 which is more beneficial to the Township. The way it is being proposed is to have 6 units as part of a market to affordable program which would be the Hunterdon Hills Residential Health Care Facility; by converting some of their existing bedrooms so they would qualify as affordable housing.

Planner Bolan said he sent a memo to COAH almost 2 ½ months ago raising the issues that he put in the memo to the board and hasn't received a response. Planner Bolan said that he will go ahead with that approach whether we hear a response or not. The deadline is June 1st to have the adoption of the Housing Plan. Planner Bolan suggested June 1st for the hearing.

When these numbers came out we had a rehabilitation share which we had 1 unit. COAH is now saying we have 20 units. Planner Bolan said he raised the issue in the plan of how can it go from 1 to 20. The plan is addressing 12 affordable units and 19 rehab units. Planner Bolan said he thinks COAH uses a regional percentage and assume that 70% of the units that would qualify based on age, deficient in plumbing and/or heating or overcrowded which means more than one person per bedroom. Then COAH applies a percentage of 71% of those units are occupied by low or moderate income households. Planner Bolan said he's asked for a clarification because he did not understand how we went from 1 to 20. Planner Bolan suggested having our public hearing on June 1st to see if we get a response from COAH and the Highlands. Mr. Schmidt asked about the newly revised Home Occupation Ord. and would it affect our numbers. Planner Bolan said no. Mr. Rich expressed concern if everything could change with COAH. Planner Bolan said the 90 day moratorium runs out May 15th. The task force has completed their report and has recommended 35 short term recommendations that they are making to the Governor. The Executive Order issued by the Governor only deals with COAH, so we still have to comply with the Highlands. The Executive Order didn't change any dates, it just said that COAH can't give certification during the 90 day period. The report came out on March 24th but Planner Bolan said he hasn't heard anything. At the conclusion of the board's discussion, it was decided to hold the public hearing on June 1st.

b. Highlands – Planner Bolan

Planner Bolan said the last time the board met; we had received an incomplete letter from the Highlands based on what the board submitted on December 8th 2009. We received the incomplete letter on January 31st. Then we had 45 days to respond with a deadline of March 15th and we did. Then they have 45 days to review what we resubmitted. The items the Highlands asked us to supply were technical items. The Highlands had asked for 3 different sets of maps. We do not adopt Natural Resource Maps as part of our Land Use Ordinance. The Highlands came back and said if we don't submit now it will become an issue during the actual review of the plan for plan conformance. Planner Bolan said he then submitted the plan. Once they do their review and get a response and then a substantive review of what we submitted, then it will go before the Highlands Council for Basic Plan Conformance. Once that occurs then there is final process called Final Plan Conformance and then we will get a report with a schedule of what needs to be done along with a time schedule.

Mr. Piazza asked about the last paragraph in the letter from the Highlands regarding the grant money. Mr. Piazza asked if we have exceeded the \$50,000.00. Planner Bolan said yes. Ms. Glashoff interjected and said that she has received all of Planner Bolan's bills along with the bills she has from Attorney Gallina and Engineer Risse. Ms. Glashoff said had contacted the Grant Administrators at the Highlands and he email

Lebanon Township Planning Board
April 6, 2010
Page 2

her all the information in order for her to put everything together to send to the Highlands for the reimbursement. Ms. Glashoff said she was asked by the Clerk Karen Sandorse to get a printout from the CFO to compare and make sure all the bills match up and nothing was missed before sending everything to the Highlands Council. Ms. Glashoff said she has not received the printout and everything is ready to go to the Highlands for reimbursement. Mr. Piazza felt that the Township should not spend anymore money at this time. Mr. Piazza was concern since we haven't been reimbursed and didn't want to spend more money. Chairman MacQueen agreed that we shouldn't spend anymore money. At the conclusion of the discussion, Ms. Glashoff informed the board that she will get the packet out in the mail tomorrow. The board asked what the next step is as far as additional work. Planner Bolan said he is waiting on a letter from the Highlands that he had referred to and that will have some work associated with it. Mr. Piasecki asked Ms. Glashoff if anyone knew who was to handle this by getting it to the Highlands for the reimbursement. Ms. Glashoff said it was the Finance Dept. and when the treasurer left, she offered to take care of it. Mr. Piasecki said to stop the process now for whatever reason is ridiculous. Mr. Piazza thought the Township by now would have received a check and to find out we should have been submitting these vouchers all along on a regular basis and he did not know that. Mr. Piasecki said the money has already been approved by the Highlands and it seems that it's our own fault that we haven't been reimbursed. Chairman MacQueen and Ms. Bleck asked if we have a Finance Dept. Mr. Piazza said we have a CFO but not a treasurer at this time. At the conclusion of the board's discussion the ZBA Report was discussed.

c. ZBA Annual Report 2009

Planner Bolan said the annual report that the board received was the one the Zoning Board worked on at their February 24th meeting. Planner Bolan said that nothing new was added to the report from that meeting. The Zoning Board kept the recommendations that have been made before. Planner Bolan noted the private road applications are always the big issue with the board. They are 1/3 to 1/2 of the variances that are requested. The variance is generated by the language in the MLUL. Regarding the setbacks for building housing farm animals, the zoning board feels that the setback should be the standard setback required for principle and accessory structures. Regarding the accessory apartment ordinance, the ordinance should be revised to include the specific date of July 1, 1987. Planner Bolan discussed the checklist that is handed out at the Tewksbury Construction office. Ms. Glashoff informed the board that one of the main items was not listed on the checklist which was the Construction Escrow Fee. She and Kim reviewed the checklist and offered recommendations to Engineer Risse. Engineer Risse made the changes and emailed over to Tewksbury Construction and Charlie Rogers approved the recommendations. Planner Bolan referred to the Natural Resources Conservation Service approvals that need to be in place prior to construction on pre-existing lots regarding slopes and other environmental concerns. He will contact Engineer Risse on this issue. Lastly, the definition of "Animal Farms" which includes indigenous and/or exotic animals. This definition has caused some difficulty with the Zoning Officer and it has been recommended that the word "indigenous" be deleted from the definition. Mr. Schmidt asked about the date of July 1st regarding accessory apartments. Planner Bolan said the board didn't want people building an accessory structure just for the purpose of having an apartment in a single family zone which could create a two family zone. The date was for the benefit for those people with existing structures and wanted to convert it to an apartment.

d. Memo from Zoning Officer

Chairman MacQueen had asked Mr. Flemming to put together a memo with any of his concerns of suggestions for the board to review and if they wanted to have Mr. Flemming come to a meeting it would be scheduled for a later date. Chairman MacQueen asked Planner Bolan for his input on the memo. Planner Bolan referred to the first item on Off Street Parking. He did not understand what the concern was since it is the Engineer that takes care of the review. In item two, we did an absolute limit of the floor area which includes not just the principal structure but the accessory structure so that doesn't need to be amended. Also, the home occupation shall not occupy more than 2,000 square feet of floor area. Planner Bolan informed the board that the Board of Adjustment has had a continuous application before them and the applicant's attorney and the objector's attorney can't agree on anything but on this they agreed.

Planner Bolan said that what Mr. Flemming is referring to under Section b(8) is what the Zoning Officer is reviewing. If it were under Section a(8) the board would be reviewing them under Home Occupation and the board would condition the application on what the Zoning Officer is suggesting to be included in this memo. Planner Bolan said he agrees with what the Zoning Officer addressed in his memo. Mr. Schmidt said he didn't know what kind of hazardous materials the Zoning Officer was referring to, but when you used pesticides you have to notify the Fire Department, so in the event there's fire the Fire Dept needs to know about any hazardous materials and pesticides. Regarding fees, it was noted that the Home Occupation Ordinance was adopted back last October, 2009. Attorney Gallina referred to A10 and B10 of the ordinance which states that the Planning Board will determine an off street parking requirement. Planner Bolan said didn't know what the fee question was. Chairman MacQueen asked Ms. Glashoff to explain the fee. Ms. Glashoff stated that we charge \$25.00 for a zoning permit, but now that we have these other reviews regarding Home Occupation, the question was shouldn't we charge a fee anywhere from \$50.00 to \$100.00. Tier 1 goes to the board and they pay the minor site plan fee. But what the Zoning Officer was referring to was Tier 2 which the zoning officer reviews and signs off on. Mr. Piazza asked about the changes. Attorney Gallina said that we would amend the ordinance with these minor changes.

Lebanon Township Planning Board

April 6, 2010

Page 3

Chairman MacQueen said he will check with the zoning officer regarding the fees and get back to the board. Mr. Gerlich suggested having the zoning officer come to a meeting so the board can ask him about the fees and teardowns. Chairman MacQueen asked about the Butler Park area. Ms. Glashoff noted the times the Board of Adjustment had applications with all those small lots. Per Ms. Glashoff that area is in the R 1½ zone and none of those lots can meet the requirements. Ms. Glashoff said those lots are like the ones in the R15 zone. At the conclusion of the discussion, Chairman MacQueen will contact the Zoning Officer and let him know that the board said they would like to have him come to the Planning Board Meeting to discuss the last three items in his memo.

e. By-Laws Update if needed

Mr. Rich said in reviewing the By-Laws he found that the member section needs to be updated since we no longer have 7 members with 2 alternates but 9 regular members. Mr. Gerlich noted that with 9 members you now need a quorum of 5 not 4. Ms. Glashoff said if there are no other changes the board can vote to have Attorney Gallina make the changes. Motion by Mr. Rich and seconded by Mr. Piasecki to have Attorney Gallina make the necessary updates to the By-Laws. Unanimously approved.

f. Amend Ordinance Section 45-20 "Time Limit for Action" – Attorney Gallina

Attorney Gallina said that this ordinance basically deals with the Board of Adjustment regarding variance approvals and giving the applicant 1 year to get the necessary building permits per the ordinance. The board has always given the applicant 18 months to acquire the permits but there have been several applicants over the years that the 18 months has expired and they came back in for an extension after the fact. The Zoning Board suggested that the applicant must apply for an extension before the expiration of the 18 months. The ordinance would need to be amended to reflect 18 months via 1 year and stated that the applicant apply for the extension before the 18 months expires. The board briefly discussed this request and in conclusion, motion by Mr. Rich and seconded by Ms. Bleck to approve the proposed amendments to the ordinance. Unanimously approved.

g. Alternative Energy Ordinance back from Township Committee

Chairman MacQueen informed the board that he and several members of the board attended the public hearing on this ordinance. At the conclusion of the comments made at the public hearing by members of the public, the Township Committee suggested that the ordinance come back to the board for further discussion and amendments. Chairman MacQueen said that problems brought up by the public was the setbacks for the wood burning furnaces, acreage, color of windmills, roof mounts (on roof of barn) as a few examples of the issues that were raised.

Mr. Schmidt referred to legislation that's been passed, one from March 31, 2009 which has to do with preserved farms and solar wind permitted standards. Mr. Schmidt read the new law to the board and public. The one law speaks of boundary line setback requirements greater than a 150% of the system height. Our ordinance says 200%, the law said 150% or less and you can't go more. The second law refers to setting a maximum noise limits lower than 55 decibels at the property line and not allowing the limit to be exceeded during short term events such as power outages or wind storm. In our ordinance it is 50 decibels. These need to be changed since it is New Jersey law. Mr. Schmidt said he had a problem with the 200' from a property line for the wood stoves. The front yard setback was also an issue with the windmills, solar etc. The height for a windmill and the color of the paint for a windmill was also an issue brought up by the public. If someone has a windmill and wants to change the color they would have to go to either the Zoning Board or Planning Board. Mr. Schmidt felt that the 25 acres for windmills was too much and it should be brought down to maybe 5 acres.

Mr. Weiler said just from the comments that were made that the ordinance was too restrictive and felt the questions and comments made were valid. Chairman MacQueen opened the discussion to the public. Mr. Harry Harth from Elk Ridge Road informed the board that he is building a house over on Pleasant Grove Road and the lot size is 3.9 acres. He was looking to have a windmill and with the 25 acre restriction he would be unable to have a windmill. His lot is ideal for a windmill because of the location and openness and the wind. Mr. Terzuolo said if you are going to allow something by ordinance it should be as inclusive as possible not exclusive. Regarding the wood burning furnaces, he suggested making it 300' from the wood burning stove to the nearest residence. The board questioned if you had a resident within 300' on both sides. Mr. Terzuolo said even with residents 200' on both sides it wouldn't work either. Mr. Piasecki asked about having an approved vacant building lot. The board discussed this issued at length. Mr. Terzuolo said vacant lots would have to be handled on a case by case basis.

Mr. Anthony Casale said he was in attendance at the Township Meeting when this ordinance was discussed. Mr. Casale agreed that the lot sizes should be lowered. He said what concerned him was this all got started by the Zoning Officer, being confused by issuing a zoning permit because he was concerned on whether the applicant was installing an EPA approved stove. Mr. Casale said this is not a zoning issue. It would be the building department when the application came forward. If the applicant can't meet the zoning setback then it would not get to the Construction Dept. Any regulations would be a Board of Health issue. Mr. Casale said he didn't know why we need to change anything. Mr. Casale said he was the one

Lebanon Township Planning Board
April 6, 2010
Page 4

who asked about color with the windmills. This color issue is going to be subject to opinion. He did not know whether this board should be decorating regarding the color issue. Mr. Casale said he doesn't agree with the section on abandonment. He said there are sections of this ordinance that are cloned from other municipalities. He did agree with having a maintenance schedule. Mr. Scott Koenig had a question regarding windmills and the ones that can be mounted on your roof. Chairman MacQueen asked the height of Mr. Koenig house. Mr. Koenig said 16' to the peak. With the tower it would be 22' in height. Mr. Koenig felt that houses on very small lots shouldn't be penalized if they are looking to have a mounted system on the roof because they are in the wrong zone. Per Planner Bolan, the ordinance deals with a free standing structure, not mounted. Also, regarding the wood burning stoves, the Zoning Officer is still denying them. The Board of Adjustment was very specific, that the appeal from the Zoning Officer on the stoves, only pertained to that specific one, not all stoves. Ms. Bleck asked what should the board tell Mr. Koenig. It was noted that per the BOCA code, the height for a house is 35'. Since there were no other questions or statements from the public, Chairman MacQueen asked the board for their comments.

Mr. Schmidt referred to the two state laws are: S2528 and A3740 and the other one which has to do with farmland is S1538 and A2859. Mr. Schmidt said that the abandonment section should be in the ordinance and he thought it was also in the state law. He would also like to see the acreage change from 25 acres to 5 acres for the windmills. The 200' from any property line for the wood stoves needs to be changed also. Mr. Gerlich said that the board has been working on this for almost two years. Mr. Gerlich did not feel that we should change anything in the ordinance. Mr. Gerlich agreed that if the system isn't working or being used, it should be taken down. He also agreed that painting these windmills any color isn't good, there needs to be some level of protection for the neighbors and it also has to fit into the neighborhood. Mr. Piasecki agrees with Mr. Gerlich for the most part to the extent that the legislation that might trump our ordinance and would like Planner Bolan to look into it. Mr. Piasecki asked Ms. Glashoff to print out the legislation and get it mailed to everyone. Mr. Piasecki said that everyone made compromises to get this ordinance done and would not want to start over again.

Mr. Rich said for the most part he agrees with Mr. Gerlich and Mr. Piasecki. The one area that we need to address is the 200' for the wood burning stove and it still needs work. Not looking to create smoke for a neighbor. These units spill out a lot of smoke. Mr. Rich felt that Mr. Terzuolo had a good idea with having the footage from the house not the property line. Mr. Rich said he was not interested in lowering the acreage from 25 to 5 for the windmills. He mentioned that the board had discussed having a minor site plan for the windmills. Planner Bolan said it is in the ordinance in the beginning. Chairman MacQueen said that with all the public comment at the Township Meeting, they felt the ordinance needed to come back to the board for more discussion. We do have a lot of lots that are configured oddly, the smoke is a huge concern for the neighbors. We need to come up with a way this can work so we don't have an abundance of applications before the Zoning Board. We need to be proactive. This ordinance needs to work for the whole Township.

The board decided to carry the alternative energy ordinance over to the May 4th meeting and felt this would probably take up the entire evening. Mr. Piasecki suggested that the Township Committee be invited to the next meeting. Also we need to hear from those residents that live on 3-5 acre lots and how they feel about what we are proposing.

At the conclusion of the board's discussion and no more comments, Chairman MacQueen asked for presentation of bills.

PRESENTATION OF BILLS & REPORT:

a. John Gallina, Esq.	\$ 350.00
b. Michael Bolan, PP	\$3,746.90
	\$2,994.44 – Highland Grant
c. Bayer/Risse Engrs.	\$1,135.25
Total:	\$8,226.59

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

CORRESPONDENCE:

OPEN TO THE PUBLIC

Anthony Casale of Boulder Field Road had a few additional comments to make.

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 9:08 p.m. Unanimously approved.

CHAIRMAN GARY MACQUEEN

GAIL W. GLASHOFF, PLANNING BOARD CLERK