

REGULAR MEETING

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

May 2, 2006

The 787th Meeting of the Lebanon Township Planning Board was called to order at 7:05 p.m. by Chairman Gary MacQueen. Present were: Mr. Weeks, Mr. Schmidt, Mr. Gerlich, Mr. Piasecki, Mr. Rich, Ms. Bleck, Mr. Spatz, Ms. Schriver, Attorney Gallina, Planner Bolan and Engineer Risse.

Notice of this meeting was provided for in the "Annual Meeting Notice Schedule" adopted by this board on January 17, 2006, 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 April 26, 2006.

PRESENTATION OF MINUTES: Regular Meeting April 18, 2006

Motion by Ms. Schriver and Mr. Piasecki to approve the minutes as presented. Unanimously approved.

RESOLUTION:

a. David Klipstein Block #24 Lot #17
Extension of time to file deeds Route 513 & Doefield Road RC 7½
on a minor subdivision

Motion by Mr. Gerlich and seconded by Mr. Rich to approve the Resolution for an Extension of Time to File Deeds.

ROLL CALL Yes: Mr. Weeks Mr. MacQueen No: None
Mr. Schmidt Ms. Bleck
Mr. Gerlich Mr. Spatz
Mr. Piasecki Ms. Schriver
Mr. Rich

FYI: Highlands Update

REMINDER: MCA-NJ Partnership Meeting scheduled for May 9, 2006
6:30 p.m. at the Lebanon Township Municipal Bldg (Who will be attending)

Ms. Glashoff asked who would be attending next Tuesday evening. The following people offered to attend: Mr. Rich, Mr. Gerlich, Mr. Schmidt will attend and Mr. MacQueen, Ms. Bleck and Mr. Weeks will try to attend. Ms. Glashoff will email Danielle LaBruna to let her know who will be attending.

EXTENSION OF TIME TO FILE DEEDS:

a. Sturbridge Estates Block #34 Lot #2
Minor Subdivision with West Hill Road RC 7½
Conditions
(Ltr from Attorney Guliet Hirsch)

Mr. Cassavale was present to discuss his extension of time on his minor subdivision. Mr. Cassavale informed the board that he is still waiting for his approval from the DEP-Highlands and asked the board for a 6 month extension... Chairman MacQueen felt it would make better sense to extend the time for 18 months considering how long it can take with approvals from outside agencies. The board agreed. After a brief discussion, motion by Ms. Bleck and seconded by Ms. Schriver to grant an 18 month extension of time starting May 21, 2006 through November 21, 2007.

ROLL CALL Yes: Mr. Weeks Mr. MacQueen No: None
Mr. Schmidt Ms. Bleck

Mr. Gerlich Mr. Spatz
Mr. Piasecki Ms. Schriver
Mr. Rich

Mr. Cassavale thanked the board. Attorney Gallina will draft the resolution to be place on the agenda for June 6, 2006 meeting.

UPDATE ON RESOLUTION CONDITIONS:

- a. Davara Industrial Center Block #6 Lot #1
Amended Site Plan with conditions Route 31 B2
(Ltr from Atty DeChellis, Resolution, Ltr from Gary Apgar, Fire Official
& Ltr from Fire Chief Warren Gabriel)

Attorney DeChellis was present along with Mr. English to discuss the conditions in the Resolution.

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Attorney DeChellis informed the board the fire tank was installed last week and had pictures to pass around to the board members. Also, Land Surveyor Eldon Allen will be at the site this week to survey and provide a drawing of the tank location which will be added to the Site Plan. The tank has been inspected by Engineer Risse. Engineer Risse stated that he inspected the installation from start to finish. The only remaining thing to be done is the Fire Department to come in and does a draft check on the tank. Attorney DeChellis stated the Fire Chief is scheduling a Drill. Attorney Gallina informed the board that he has received from Attorney DeChellis a draft of the easement agreement with correspondence and changes have been made and approved per Attorney Gallina. Attorney DeChellis will have the easement recorded.

Chairman MacQueen asked what was left on the resolution to be completed. Attorney DeChellis informed the board that all the conditions have been completed. Attorney Gallina asked if the signs regarding the tank have been posted. Attorney DeChellis noted that they will be shown on the Site Plan and will be posted... Attorney DeChellis stated the Fire Chief Warren Gabriel requested the tank be relocated down by the Foley Bldg. Mr. English stated that when they started to dig, they hit the Stormwater pipe and had to move the tank back and away from the pipe. Attorney Gallina stated that one of the conditions was once everything is done; Engineer Risse would issue a final report that everything has been completed. Engineer Risse said that he will wait until he receives a report from Fire Chief Warren Gabriel that the Drill has been done. Attorney DeChellis stated they anticipate everything being completed meaning the Drill before the next Planning Board Meeting. Engineer Risse spoke with the Fire Chief late this afternoon and he concurs with Attorney DeChellis comment.

Chairman MacQueen asked if an extension of time should be asked for. Attorney DeChellis stated that when Mr. English spoke to Ms. Glashoff informing her that the tank was being delivered on April 18th that would be the notification for any extension, but a formal letter has been sent to the board requesting the extension of time. Attorney Gallina asked if the tank specifications and details have been submitted? Attorney DeChellis stated that they were delivered to Engineer Risse.

Mr. Schmidt asked that the Storm Drain be located on the plan because of the Stormwater Management now being an issue. Engineer Risse noted that the storm drain is on the plan put needs to be realigned. Engineer Risse agreed that it should be shown correctly on the plan. Ms. Bleck questioned the 30 days. Attorney Gallina stated that Attorney DeChellis is now requesting 30 days from today for the completion of the As Built Plan and being submitted which will be June 2nd.

At this time, Chairman MacQueen asked for a motion regarding the extension. Motion by Ms. Bleck and seconded by Mr. Piasecki to grant an Extension of Time for the completion and submitting the As Built to June 2, 2006.

ROLL CALL	Yes: Mr. Weeks	Mr. MacQueen	No: None
	Mr. Schmidt	Ms. Bleck	
	Mr. Gerlich	Mr. Spatz	
	Mr. Piasecki	Ms. Schriver	
	Mr. Rich		

Mr. English asked how many copies of the As Built would be needed. Ms. Glashoff stated just one for Engineer Risse to review for completeness, then a total of 8 sets of the As Built. Chairman MacQueen wanted to know why so many sets of plans. Ms. Glashoff explained there are several people who will get a stamped signed set besides what goes to the applicant and what is kept on file here.

INFORMAL:

Victor Cleary	Block #6	Lot #1
169 Clinton St.	Route 31	B2
Woodbridge, N.J. 07095		

Discussion on having Open Pits Bar-B-Q, canopy, table & chairs

Mr. Cleary informed the board that he is a sole proprietor. He has a small open pit Bar B Q on Route 31 North on the Davara property. Mr. Cleary stated that he had a health inspection last week and passed. The health inspector asked about the canopy and was informed that the canopy would be installed the next day. The inspector was concerned with inclement weather and bird droppings regarding the open pits. Mr. Cleary asked if he could have the canopy and seating (picnic tables) for his patrons. Mr. Cleary stated they have a very clean and quite operation. Mr. Cleary informed the board that he is not a permanent structure and that he would be gone by early winter. Chairman MacQueen asked Mr. Cleary if he has gotten a Zoning Permit. Mr. Cleary asked what a zoning permit was and stated he had a food handling permit. Chairman MacQueen asked Planner Bolan for his input. Planner Bolan stated the applicant's business is located in the B2 zone and eating and drinking establishments are permitted. Planner Bolan asked if the setup is in the Route 31 ROW. Mr. Cleary said he is 17' from the guardrail. Planner Bolan asked if that section of Buffalo Hollow Road was on Davara's property. Mr. Gerlich responded saying that section of the road had been known as the Old Spruce Run Turnpike which was taken over by the State and

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became Route 69, then during the 1930's when the State realigned the Highway that section was abandoned by the State and was no longer needed.

Mr. Gerlich when on to say when Attorney Wesley Lance was the Township Attorney he had looked into it and it was never established who truly owns the road. Dave English has annexed it to his plans to make it convenient but what claim he truly has on it or claim the public has on it is unknown but without it you can not get to Buffalo Hollow Road. Planner Bolan stated on Davara's plans it shows the property going to Route 31 and on this page of Davara's Site Plan it is shown to be in the Route 31 ROW. At this point, Planner Bolan went to look at the Tax Map. The board took a 5 min recess while Planner Bolan checked out the Tax Map. When the board reconvened, Planner Bolan stated the general ROW on Route 31 is 80' and at this location it is 160'. Where Mr. Cleary is located is in the ROW. If it turns out that Mr. Cleary is on Davara property, then he would be in Davara's front yard setback. During the discussion, the question was asked about the parking. Mr. Cleary stated his customers park on the grass and along the road. Mr. Cleary showed the board where he would like to put the picnic tables. Chairman MacQueen asked what the hours of operation would be. Mr. Cleary stated he would like to be open from 11:00 a.m. to 7:00 p.m. Tuesday through Thursday and 11:00 a.m. to 8:00 p.m. Friday through

Sunday. Attorney Gallina asked what months he would be in operation. Mr. Cleary stated end of March to mid-November weather permitting. Planner Bolan noted that the plan they have in front of them this evening does not depict everything that is on the Davara site.

During the discussion, Mr. Gerlich asked what would the board do if other restaurants in the Township came in and wanted to open up outside to serve their customers, setting up tents and table and chair, the board would request a site plan for a through review. Do we want to set a president that could be hard to deal with in the future? Having someone drive in and set up to sell Hot Dogs for a couple of hours and then leave with the entire operation is one thing, but to have a somewhat permanent operation even though it is seasonal, flies in the face of every ordinance that has ever been approved. Mr. Gerlich stated even if you buy Dave's Site Plan that he owns all the way to the Highway this operation sets in the front yard setback of Davara Industrial Center. We need to think about what we are doing here. We could be opening a big door. Mr. Piasecki stated that the board reviewed very closely Rita's operation which is seasonal. There is no protection from the Roadway at this location. There is no designated parking. Mr. Gerlich referred to all the school buses that traverse this roadway and all the trucks, tractor trailers which all pass by this operation to enter Davara's site. The traffic might be slow but there is a lot of it. Mr. Rich stated that we really don't know who owns the property and whether or not this operation is in the State ROW. Mr. Rich noted that if this is on Davara property, this property is already tapped out. Mr. Rich stated this would entail a full blown Site Plan and Public Hearing and if it is in the State ROW do we have the right to grant anything because we really don't know who owns the property. Attorney Gallina noted generally the owner of the property would have to grant permission for an applicant who is not the owner to make application before the board. If this is in the State ROW, then the State would have to grant permission. Mr. English would not be able to grant permission for this application to come before the board.

Ms. Bleck stated that it would also be for the applicant's own protection to have a Site Plan. Ms. Schriver asked who has been maintaining the road. Mr. Gerlich stated the Township. Mr. Gerlich stated per Attorney Lance that the State vacated the old road because it was no longer needed and no one has laid claim to the road. Ms. Bleck stated since the Hot Dog vender leaves every night and returns the next day, if Mr. Cleary did the same then a Site Plan would not be needed. Mr. Gerlich stated if a formal application comes to us, we could be mirrored down into a lot of legal issues. If a complaint comes in the Zoning Officer would have to deal with it. Mr. Rich stated we can't have something that is not safe. It is our responsibility to the Township to create a safe environment and as Mr. Piasecki said earlier there is the issue of parking, tables etc. We have a liability issue here and we need to do good diligence. Mr. Weeks asked Mr. Cleary to find out who actually owns the property and then we can go from there.

Mr. Skene asked if the property belongs to the State does he have jurisdiction regarding zoning. Attorney Gallina informed Mr. Skene whether the property is in the State ROW or it is private property; it is in the Township and has to be dealt with. The subject of the electrical meter that Mr. Cleary is using was discussed. Planner Bolan referred to the survey being done by Eldon Allen for the As Built will it only focus on the tank area or will it include the out bounds. Engineer Risse stated only on the tank area. Planner Bolan asked if what they have in front of them this evening is based on a survey. Engineer Risse informed Planner Bolan that it was part of the Davara survey. Chairman MacQueen noted this survey is old. Bob Taggart owner of Tree Cycle stated that he had a survey done by Studer McEldowney and it included out to the guard rails as the property line. Chairman MacQueen stated if that's the case, then this operation is in the front yard setback of Davara and then this operation should be removed tomorrow. Attorney Gallina agreed and stated by putting this structure in the front yard setback creates a zoning violation. Setbacks are to be cleared of all structures per the ordinances. Chairman MacQueen stated until this issue is resolved, it would be better not to be operating at this location. During the discussion, Chairman MacQueen stated that his impression from the board is that Site Plan Review is needed. The board agreed and continued with the discussion and suggested to Mr. Cleary to find out who actually owns the property and go from there. The board told Mr. Cleary that they can not tell him to shut down or to stay open. Planner Bolan noted that this would not fall under Exemption from Site Plan based on the criteria in the ordinance. Mr. Cleary would need to provide a limited Site Plan for review. Since Mr. Taggart from Tree Cycle has a new survey that could be a start for Mr. Cleary.

Ms. Glashoff asked if it turns out Mr. Cleary is on Davara property, he will not only need a Site Plan but a variance for the front yard. Planner Bolan answered yes. Zoning Officer Mr. Skene said it would be his call to allow Mr. Cleary to stay open if he is in the process of providing a Site Plan to the board. Attorney Gallina informed Mr. Skene that he would have to address that issue to the Township Attorney. Mr. Gerlich stated the immediate call will be with the Zoning Officer. Mr. Cleary thanked the board for their time.

ITEMS FOR DISCUSSION:

a. Zoning Officer – Bill Skene

Chairman MacQueen stated that in a previous Resolution regarding Davara it states that the Zoning Officer will make no less than two inspections per year. Mr. Skene informed the board that he and Engineer Risse did an inspection and walked the site last week. Since the inspection was done early afternoon, the school buses were not on site. Mr. Skene stated the Resolution refers to vehicle parking. It does not specify what type of vehicles. Chairman MacQueen asked if all the conditions in the Resolutions have been complied with 100%. Mr. Skene answered no. There are a couple of minor items that still need to be addressed. Mr. Skene stated without lined parking spaces, it is a flowing event. Planner Bolan noted where the building with the new addition is located wasn't there to be car parking besides the bus parking? Mr. Piasecki stated that in order to do an accurate inspection of the site, you need to be there when everything is on the site. Mr. Skene agreed. Planner Bolan noted that there are 15 bus parking spaces on the upper level. The spaces on the west side of the building are for car parking. The spaces were put there to meet the parking requirement for the new building. It is now completely lined with school buses. Chairman MacQueen stated once the As Built is completed then Mr. Skene will need to go back and do an inspection with Engineer Risse. Chairman MacQueen referred to the landscaping which needs to be completed. Engineer Risse informed the board all the landscaping is completed. Mr. Piasecki reminded the board the Zoning Officer offered to put the report in writing. Chairman MacQueen agreed.

Chairman MacQueen asked if the board had any other questions for the Zoning Officer. Mr. Weeks stated over the years things have fallen through the cracks. We need to have conditions in Resolutions taken care of and we have had problems over the years with things not being done. We need to know that when there are violations, they are taken care of. This problem has gone on for years, even before Mr. Skene was hired. But we need to know that things will be taken care of and not fall through the cracks. Mr. Skene stated new homes built on private roads, before signing off on the as built, he checks the resolution to make sure everything has been taken care of. In regards to past resolutions and conditions from an enforcement position, unless it is brought to Mr. Skene's attention, it is very difficult, you could hire someone full time to read all the resolutions and check out all the properties to make sure they are in compliance but on a part-time basis there is no way. If a complaint comes in, Mr. Skene stated that he checks to see if there is a resolution. Ms. Glashoff reminded Mr. Weeks that the Zoning Officer is only here 10 hours per week and spends several hours in the building with applicants. Ms. Schriver stated that it was brought to her attention about many trees being taken down, the property is on Dewey Lane next to the Bus Company. Ms. Schriver asked Mr. Skene if the property owner had applied for a Tree Removal Permit. Mr. Skene answered no, not to his knowledge. Ms. Schriver asked Mr. Skene to check into it. Mr. Skene stated that properties under 5 acres, a permit is not required per the ordinance.

The subject of fences was addressed. Planner Bolan informed the board of a Fence Ordinance that he had prepared for Clinton Township. Planner Bolan will send the ordinance to Ms. Glashoff to be on the next agenda under Items for Discussion. Mr. Skene agreed it would be a very good idea to have a fence ordinance.

PRESENTATION OF BILLS & REPORT:

<i>a. John Gallina, Esq.</i>	\$ 605.80
<i>b. Banisch Associates</i>	\$1,938.50
Total:	\$2,544.30

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

Chairman MacQueen asked Mr. Gerlich for an update from the Environmental Commission. Mr. Gerlich stated they had their Reorganization Meeting last evening. One of the items they spent a lot of time on was the Tree Ordinance. The Commission is looking to have something prepared by June or July. Warren Newman was present and went over a few things with the Planning Board. Ms. Glashoff asked Planner Bolan if he had could send a copy of the ordinance to her electronically. Planner Bolan answered yes.

Ms. Schriver informed the board that Warren Newman was appointed Chair of the Environmental Commission and we have a very talented group and it will be a great year for the Commission.

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CORRESPONDENCE:

Chairman MacQueen stated he was asked by the Township to save more money. All the correspondence that Gail goes through and puts in our packets, it takes her a long time to do this and it costs a lot of money to send it in the mail. The question to the board is how much do we really need in every packet. When this correspondence comes in should we have Gail make one copy of each and put it out on the table to look at and if we decide we want a copy of one of the items or more, after the meeting we can make copies ourselves. This would free up Gail's time and save money with postage. During the discussion, Planner Bolan stated if the board wants to save money, he suggested cutting back to one meeting a month. During the discussion, Ms. Glashoff informed the board of the upcoming meetings and reminded the board that we have over the past several years, cancel at least one meeting per month during the summer. Back to the correspondence, Ms. Glashoff said she will list the items so everyone will know what is available.

OPEN TO THE PUBLIC:

Warren Newman asked about the Partnership Meeting being held here next Tuesday and wanted to know who will be attending from Lebanon Township. Ms. Glashoff informed Mr. Newman that she has the list of names and will be contacting Danielle in the morning. Mr. Newman asked about the Open Space and Recreation Plan and if it has been updated. Planner Bolan answered no, not since it was adopted in 2004. Planner Bolan stated that he will bring a copy of the map to the next Planning Board Meeting. Ms. Schriver stated that she would like the Environmental Commission to consider working on the Trail system. Planner Bolan said that we can update the map annually with minimal effort.

Ms. Glashoff reminded the board their next meeting is June 6th. May 16th was cancelled.

Being no further business to come before the board, nor comments from the public, motion by Mr. Spatz and seconded by Ms. Bleck to adjourn the meeting at 8:55 p.m. Unanimously approved.

CHAIRMAN GARY MACQUEEN

GAIL W. GLASHOFF, PLANNING BOARD CLERK