

REGULAR MEETING

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

May 7, 2013

The 869th Regular Meeting of the Lebanon Township Planning Board was called to order at 7:03 p.m. by Chairman Gary MacQueen. Present were: Mr. Schmidt, Mr. Gerlich, Mr. Piasecki, Mr. Rich, Ms. Bleck, Mr. Weiler, Mr. McKee, 1st Alternate Laul, 2nd Alternate Skidmore, Attorney Gallina, Planner Bolan and Engineer Risse. **Excused:** Mr. Milkowski

Notice of this meeting was published in the "Annual Meeting Notice Schedule" adopted by this board on January 15, 2013, faxed to the Hunterdon Review, Hunterdon County Democrat, Express Times, Courier News, Star Ledger and posted on the bulletin board in the Municipal Building on May 1, 2013.

PRESENTATION OF MINUTES: March 5, 2013 Regular Meeting

Motion by Mr. Gerlich and seconded by Mr. Laul to approve the minutes as presented. Unanimously approved.

March 5, 2013 Executive Minutes

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

The Chairman announced that the Board will go into Executive Session at this time and asked for a motion.

Motion by Ms. Bleck and seconded by Mr. McKee to have the board go into Executive session at this time. Unanimously approved. The following board members left the room: Mr. Gerlich, Mr. Piasecki and Mr. Weiler due to a conflict of interest. The public also left the room.

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

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

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

The Chairman announced that the Board will return to the Regular Meeting of the Board with a motion.

Motion by Mr. Rich and seconded by Ms. Bleck to close the Executive Session and return to the regular meeting. Unanimously approved.

APPLICATION FOR COMPLETENESS:

Odins Raven – 1 Lot Minor Subdivision/Merger
with Variances
(Enclosed Report from Engr. Risse/plans)

Block #51 Lot #14.07 & 19
Lilac Lane & Sharrer Road R 1½

Engineer Wayne Ingram was present to represent the applicant. Chairman MacQueen asked Engineer Risse to review for the board the proposed subdivision and checklist items for completeness. Ms. Glashoff handed out plans for the board. Engineer Risse stated this property is located on the corner of Sharrer Road and Lilac Lane in the R 1½ zone. The existing lot #14.07 is 2.75 acres with a single family dwelling, inground pool and two sheds. The existing lot #19 is vacant and is .45 acre and is entirely encumbered with wetlands, wetland transition area and state open waters. There are remnants of a gravel drive and remains of a foundation. Engineer Risse informed the board that the applicant purposes to take a portion of Lot #14.07 and merge it with Lot #19 to create a building lot. Lot #14.07 would then have 1.58 acres and Lot #19 would have 1.62 acres. At this point Engineer Risse reviewed the checklist and started with **Item #16**-stating the applicant is asking for a waiver. A minor project does not require a stormwater management system. It is recommended waiving for completeness until time of the building permit. **Item #19**-deeds, waiver for completeness. **Item #22**-waiver requested from H.C. Soil Conservation District. Recommend for completeness only. **Item #23**-waiver requested from H.C. Board of Health. Recommend for completeness only. **Item #33**-existing contours 2', partial waiver requested, recommended based on nature of the application. **Item #35**-partial waiver requested. Recommend based on nature of the application. **Item #49**-waiver requested. Recommend based on nature of application. **Item #56**-public utility letter, waiver requested for completeness purposes, recommend waiver. **Item #60**-plans/profiles of utility layout. Waiver requested for completeness. Recommend waiver based on nature of application. Engineer Risse reviewed for the board the variances requested. At the conclusion of Engineer Risse's report, Chairman MacQueen asked Engineer Ingram if he had any comments on Engineer Risse's report. Engineer Ingram said he agreed with everything and will provide all the outside agency approvals. Chairman MacQueen asked if the board had any questions of Engineer Risse. Ms. Bleck referred to the 2

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variances. Engineer Risse said one variance is for the setback for the inground pool and the other is for the lot width. Since the one lot is a corner lot it has to meet the front yard setback for both of 50' each. The lot sits on the corner of Lilac and Sharrer Road. There are two front yards and one rear yard for the 50' setback requirement and one side yard. It was noted that the frontage on Lilac meets the lot width but the frontage on Sharrer does not and this why the second variance is needed. Chairman MacQueen asked if the board had any additional questions. There were none. Engineer Risse said the board can grant the waivers and deem the application complete. Attorney Gallina noted that if anything comes up during the public hearing regarding the waivers, the applicant will need to address any of those issues. Chairman MacQueen asked for a motion at this time. Motion by Mr. Rich and seconded by Mr. Piasecki to deemed the application complete granting the waivers and set a public hearing date.

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

Ms. Glashoff offered the June 4, 2013 date for the public hearing at 7:00 p.m. Everyone agreed to the date. Attorney Gallina announced the date to the public.

INFORMAL:

Susannah Lanka	Block #49	Lot #21
712 Cannon Road	Cannon Road	R 1.5

Discussion on having a Home Occupation for a Beauty Salon

Ms. Lanka made a presentation to the board. Ms. Lank stated she is a licensed beautician for 20 years and has lived on Cannon Road for 10 years. Ms. Lanka said she would like to have a beauty salon in her home and would designate an area in the house for the business. She would only be working by appointment. Appointments would average from ½ hour to 3 hours depending on what the client was having done. Ms. Lanka said she would like to have 1 employee as an assistant and would like to have her hours 9-9 and work between 35-40 hours per week. Ms. Lanka informed the board that she has a special needs child and would like to be able to work from home. There would be only 1 delivery per week. There would be no commercial vehicles coming to the property. The products she uses are safe for a residential septic system. There are no biohazard materials being used. Ms. Lanka said the State requires fire door and a separate entrance. Because of the requirements by the State, she will need to modify her home in order to have the business. There will be no crossover from the private portion of the house. Ms. Lanka informed the board that said she had her own beauty salon in the Clinton area, so she is well a where of the regulations that are required by the State.

The only thing that the neighbors will see is a separate parking area. Ms. Lanka noted on her survey where she would like the parking for her customers which will be on the other side of the house. Ms. Lanka stated she is in the process of getting County Board of Health approval. At the conclusion of Ms. Lanka's presentation, Chairman MacQueen asked if; the board had any questions. Mr. Schmidt asked Planner Bolan about the parking. Planner Bolan said there is more than enough. Planner Bolan referred to the application to the Zoning Officer and asked Ms. Lanka what happened with her application. Ms. Lanka said after the last person came before the board for a Home Occupation, the ordinance was changed. Mr. Flemming didn't know if this would be just a zoning permit or a site plan. Mr. Flemming and Ms. Glashoff suggested that she come before the Planning Board for an informal. Planner Bolan referred to Section 400-10.E of the ordinance. Chairman MacQueen asked if this had to do with parking. Planner Bolan said yes. Chairman MacQueen asked Planner Bolan if Ms. Lanka needs to file a site plan for her Home Occupation. Planner Bolan said no. Attorney Gallina said as long as she meets the criteria of the Home Occupation Ordinance and reviewed the criteria at this time. Attorney Gallina said meeting the criteria of Section 400-10E.1 the Zoning Officer can sign off on the application. Attorney Gallina said he agrees with Planner Bolan. Engineer Risse said he also agrees. At this point, the Home Occupation Ordinance was discussed at length. The board noted that the purpose of the amended ordinance was to make changes to streamline the ordinance and make it easier for someone to have a Home Occupation. Planner Bolan stated the applicant meets the criteria of section 400-10.E.1 and before the ordinance was changed it had some grey areas. Chairman MacQueen asked if Ms. Lanka needs to file an application with the Highlands. Planner Bolan said no. Ms. Lanka thanked the board for their input.

The board discussed sending a memo to the Zoning Officer letting him know what has transpired here this evening. It was decided to have Ms. Glashoff send a Memo to Mr. Flemming informing him that Ms. Lanka meets the criteria of Section 400-10.E of the ordinance.

Ms. Glashoff informed the board that she had an application that the Zoning Officer signed off on for a Home Occupation and the ordinance stipulates that the Zoning Officer is to inform the board when he signs off. Ms. Glashoff reviewed the application for the board.

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ITEMS FOR DISCUSSION:

a. Memo from T.C. re: Memo from Zoning Officer/Memo from Atty Gallina/Article from Zoning Practice on Urban Livestock Ordinance to regulate Backyard Animal Husbandry.

Chairman MacQueen asked Planner Bolan to fill the board in on what has transpired. Planner Bolan said the applicant had been denied by the Zoning Officer to have a small building to house a horse on their property. The ordinance states that a building housing farm animals has to be 100' off all property lines or 200' for the nearest residence. The property consists of 1.5 acres in the R1.5 zone. The Zoning Officer informed the applicant that since they can't meet the 100' set back requirement they would need to go to the Zoning Board. The applicant wanted to place the building 25' off the rear yard property line. When Attorney Gallina reviewed the application noted in his letter that since the property was less than 5 acres, the applicant only had to meet the normal setback requirements. The 100' setback only applies to property 5 acres or greater and a farm has to be 5 acres or greater. Planner Bolan said the applicant was denied for the wrong reason. The applicant only should have been denied for infringing on the rear yard setback. If the applicant had been told that they only had to meet the 50' rear yard setback the chances are they would not have been before the board.

At the time the applicant came before the board, the board looked at the definition of accessory uses. Accessory Uses says it has to be subordinate too and customarily incidental to the existing dwelling. The board was not ruling on anything but the sense was a horse on a 1.5 acre lot was not customarily incidental to the dwelling. There was never any action by the Board of Adjustment. The application was withdrawn. Attorney Gallina said Planner Bolan summarized it correctly. Chairman MacQueen asked Mr. McKee why this was before the board. Mr. McKee said it was at the recommendation of the Township Attorney because of the position of the Zoning Officer and the position of the Board of Adjustment. The Township Committee wanted it back here for a determination on what to do. There seems to be two positions that are conflicting, the Zoning Officer and the Board of Adjustment. The Township Committee wants to know what direction to go. Mr. McKee said this has been allowed to happen quite often in the Township. The position by the Committee is that it should be allowed. Mr. McKee said this Township has always promoted agriculture. It is at the Planning Board now for discussion. Chairman MacQueen said it sounds like from what Planner Bolan and Mr. McKee that it should be a zoning issue with the Zoning Officer on what should have been done correctly. Attorney Gallina said the Zoning Officer had his own view on things. During the discussion, Mr. Schmidt asked what happened to the point system for animals. Planner Bolan said he thought you could still get those recommendations from the Cooperative Extension Service or through the County Agent. Planner Bolan said he dealt with this in Clinton Township. He said it was so burdensome to apply. So they didn't apply it. Mr. Schmidt didn't understand why it couldn't be applied. Planner Bolan asked who is going to enforce it. Mr. Skidmore said he was confused. He did some research on this. In reviewing the chart on farms, they are permitted in the RC, R5, R3 and R 1½ zones, but not in the R15. Attorney Gallina said if you have 5 acres in the R 1½ zone then you can have a farm use. Ms. Glashoff said at the Board of Adjustment meeting they told the applicant to go back to the Zoning Officer and to show the building within the building envelope and get it approved. The applicant did and the Zoning Officer still denied it. At this point Chairman MacQueen asked Planner Bolan about sending a memo to the Township Committee. Planner Bolan said it is up to the Planning Board and that the ordinance is clear. The board continued discussing this issue at length.

Chairman MacQueen asked each board member for their opinion. Mr. Laul noted that he has a Llama on 1.5 acres, Mr. Schmidt & Mr. Gerlich said the ordinance stands, Mr. Piasecki said we should look into possible amendments. Mr. Rich said to leave the ordinance as is, Ms. Bleck agreed. Mr. Skidmore reminded the board that there are a lot of people in the Township with animals on less than 5 acres. Mr. McKee said with prior practices where do we stand now? We allowed animals on less than 5 acres and now we are saying we don't. Mr. McKee said he has a problem with it. Chairman MacQueen said this should go back to the Township Committee and they should tell the Zoning Officer what to do. During further discussion, Mr. Piasecki said that we are stuck on 5 acres. When there are so many places in the Township where people have less than five acres, they have animals and everyone knows it and it is perfectly suited. Mr. Piasecki said 5 acres doesn't fit every situation. There are so many places in this Township where people have less than five acres and they have animals. The ordinance should be reconsidered. If you have the Zoning Officer going around and enforcing this ordinance there will be some real problems. Mr. Piasecki said his recommendation is to work on the ordinance.

b. Revisions to COAH Ord. re: development fees/discuss amount on additions

Planner Bolan said he did an ordinance which 1, was to increase the percent amount from 1% to 1.5%. The other was because of problems it was suggested to drop the amount on additions from 50,000.00 down to 10,000.00. The Tax Assessor brought to our attention two problems where money wasn't collected on new dwelling units. One the owner put an addition on an existing dwelling unit, then torn down the existing dwelling unit then the addition turned into a house which was 4.5 times larger than the original house and didn't have to pay a development fee. The Tax Assessor gave some good language to use in the ordinance. There was an amendment back in 2006 which addressed additions. Planner Bolan said he was

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not involved with that amendment. It was handled by the Township Attorney. It did not provide any of the language as to what is an addition. This is being addressed now in this ordinance. Back when the ordinance was put into place, the threshold on additions was \$50,000.00. When the sub-committee was discussing the additions felt the amount was too high and should be lowered. It was lowered to \$10,000.00 which Planner Bolan said it was too low. Mr. McKee referred to basements and creating living space and it was decided that shouldn't be included. Mr. McKee said we need checks and balances and Ms. Glashoff is working on that so we don't have things falling thru the cracks. One thing that triggered this was someone was putting a breezeway and addition. Then the breezeway and original house were demolished and what was left was a brand new house with no development fee being paid. This was the main thing that triggered amending the ordinance. Mr. McKee said the days of major development is no longer happening. In the discussion at the Township level, the Committee was torn about it, this is why this ordinance is back here at the Planning Board. The board continued to discuss this issue. Ms. Glashoff informed the board that she had gone to the Township Committee to increase the amount that a person could borrow. The amount was \$15,000.00 and she asked to increase it to \$30,000.00 because once you have a person needing a loan for septic repairs the lower amount wouldn't cover it or if the person needs a loan regarding a structural problem. The Committee agreed to the increase the amount and Planner Bolan amendment the ordinance for introduction and passage. There was discussion on whether to keep these two issues separate or have it in one ordinance amendment. At the conclusion of the board's discussion, Planner Bolan said he will make the changes and send it to Ms. Glashoff to forward to Mr. McKee for the Township Committee.

c. Highlands Exemption Certification Program – Planner Bolan & Engineer Risse

Chairman MacQueen said he got a letter in the mail from the Highlands Council regarding a Highlands Area Delegated Exemption Certification Program. Chairman MacQueen said he asked Planner Bolan and Engineer Risse to attend the training session. Chairman MacQueen asked Planner Bolan & Engineer Risse to fill the board in on what this program is all about. Engineer Risse explained to the board the exemption program offered by the Highlands Council. They are looking to delegate certain exemptions from the Highlands at the local level. In order to qualify for the program a municipality has to have an approved petition for Plan Conformance. They are looking to have the municipalities take care of the residential ones and the easy commercial exemptions. The more complex ones would be handled by the Highlands Council. The purpose is to get people certified in order to handle the exemptions. We will need to adopt an ordinance and send it to the Township Committee for approval. Mr. Schmidt asked how many exemptions are there. Engineer Risse said he thought about 13. Applications for exemptions were sent down to the DEP for review and approval. Engineer Risse said by doing this they can delegate to the local municipalities. Ms. Bleck asked about the application fee. Planner Bolan said the municipality will set the fee for the review. Planner Bolan stated you don't get to do this unless you adopt the Highlands Land Use Ordinance. Planner Bolan said this would cover almost 90% of the applications that come from this Township for exemptions. Planner Bolan reviewed what was covered for the exemptions that would be handled by the Township. In the ordinance that the Township will adopt, it will specify who will be responsible for granting the exemptions. Planner Bolan said the program was very informative. A lot of excellent questions were asked and answered by the DEP. Planner Bolan noted the DEP does not want to continue doing this. Planner Bolan said if the designee is uncomfortable ruling on the exemption, they can send it down to the DEP. Chairman MacQueen thanked Planner Bolan and Engineer Risse for attending the program and explaining everything to the board. Planner Bolan said he contacted the Highlands regarding needing more money to complete the Land Use Ordinance. They need to know how much will be needed. This will include the Township Attorney and the Planning Board Attorney. Planner Bolan will notify each for when he lets the Highlands know so they will know how much to put in that Task. The Highlands designates monies for each task. An adjustment will then be made for that task which covers the completion of the Land Use Ordinance.

Ms. Glashoff informed the board that the vouchers she had sent to the Highlands for reimbursement, have now be paid and deposited into the Township's current account. The amount reimbursed to the Township is \$8,656.18 for the Tasks that they requested. Planner Bolan informed Chairman MacQueen that the Certification Program he and Engineer Risse attended can be charged against the Highlands Grant.

d. Report on COAH Board Meeting held on May 1, 2013. – Planner Bolan

Planner Bolan said it was the first COAH Board meeting in two years and one month and it was to rubber stamp the Governor's plan to seize the development fee money that's been collected by municipalities that has been unspent up thru 2008. Planner Bolan asked Ms. Glashoff if a letter has come. Ms. Glashoff said yes it was sent to the Mayor and our unspent for that time period is zero. Planner Bolan said it is a rolling 4 years. Planner Bolan said the cut off is March, 2009 that monies collected before that would have to be spent. Planner Bolan said there is between 140 and 200 million dollars that hasn't been spent that are in development fee trust funds that haven't been spent. The board voted and it was 4-1 in favor to seize the funds. Chairman MacQueen thanked Planner Bolan for the update.

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PRESENTATION OF BILLS & REPORT:

a. John Gallina, Esq.	\$ 9,716.53
b. Michael Bolan, PP	\$ 2,343.00
c. Bayer/Risse Engrs.	\$ 875.00
d. Office Supplies-G. Glashoff	\$ 78.91
Total:	\$13,013.44

Ms. Glashoff noted there was one additional bill from the Agenda Addendum for \$78.91 which brings the grand total to \$13,013.44. Mr. Gerlich said all the bills are in order and made a motion and Ms. Bleck seconded the motion to approve the bills for payment. Unanimously approved.

Ms. Glashoff informed the board that she received a bill for a maintenance contract on the system we purchased from Gramco. The bill is for 1 year for \$850.00 which would be split three ways. Ms. Glashoff said she needs to know if the board is interested in extending the contract. Chairman MacQueen asked Mr. Laul for his opinion. Mr. Laul did not think it was necessary since this is a new system and it wasn't necessary to spent that kind of money. The board agreed. Mayor McKee also agreed

CORRESPONDENCE:

OPEN TO THE PUBLIC

Doug & Annette Lemenze asked to address the board. Mr. Lemenze informed the board that they were before the Board of Adjustment regarding a building to house their horse. Mr. Lemenze reviewed for the board along with some background information on what they went through starting with the Zoning Officer and then at the Board of Adjustment. Since their notices were based on the denial from the Zoning Officer and they were informed by the Board they need to apply for a Use Variance. Ms. Lemenze asked if there is a minimum lot size for a horse, because when people call the Township they are told no. Attorney Gallina said the Board of Adjustment discussed this matter and it is not the position of the Planning Board to give an interpretation. Ms. Lemenze said it was found to be a grey area. Attorney Gallina said the applicant withdrew their application and was told they would need a use variance. Mr. Rich said we need to look at the ordinance as soon as possible and not put it on the back burner. Mr. Rich said we need to be consistent and enforcement has always been an issue in this Township. Mr. Laul said when he purchased his property the people before him had 4 horses on less than 3 acres. Mr. Schmidt agreed to review the ordinance. Mr. Schmidt said to him it is not a farm unless it is farmland assessed. Mr. Gerlich said he didn't have problem in discussing this if it is what the board wants. Mr. Piasecki agreed stating we should look into possible amendments. Ms. Bleck said she doesn't have a problem in reviewing the ordinance but expressed concern with this issue now and wanted to know what advice the board could give them. Attorney Gallina said the board can not given them any advice. They should consult an attorney for any legal advice. Mr. Weiler said absolutely the board should look at the ordinance. Mr. Skidmore agreed with Mr. Schmidt. Chairman MacQueen asked when is the next meeting and is anything on that agenda. Ms. Glashoff said June 4th and the minor subdivision with variances would be on the agenda on that night. Chairman MacQueen asked Planner Bolan to look into Planner Bolan asked if the board wanted to start with standards, state and county. Chairman MacQueen said yes.

Anthony Casale asked to address the board. Mr. Casale started with addressing the issue with the horse and with farm animals. Mr. Casale said it is a customary use for people in this Township to have farm animals. Mr. Casale then addressed an issue with trailers in the municipality that he used to live in and how they handled it. Mr. Casale then asked about the bills and the one bill for \$7,831.25 and did it include the lawsuit. Mr. Casale was informed that it was totally for work on the lawsuit. Mr. Casale then asked about the reimbursement from the insurance company. Ms. Glashoff said she will be sending in bills to Groendyke Insurance for reimbursement after this evening. The last item Mr. Casale addressed was the issue with the COAH development fee going from 1% to 1.5%.

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 9:40 p.m. Unanimously approved.

CHAIRMAN GARY MACQUEEN

GAIL W. GLASHOFF, PLANNING BOARD CLERK

