

REGULAR MEETING

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

November 3, 2009

The 822nd Regular Meeting of the Lebanon Township Planning Board was called to order at 7:30 p.m. by Vice Chairwoman Doreen Bleck. Present were: Mr. Weeks, Mr. Schmidt, Mr. Gerlich, Mr. Piasecki, Mr. Rich, Ms. Schriver, Mr. Weiler, Attorney Gallina, Planner Bolan and Engineer Risse. Mr. MacQueen arrived at 7:10 p.m.

This meeting was noticed in the "Annual Meeting Notice Schedule" adopted by this board on January 13, 2009, 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 October 27, 2009.

PRESENTATION OF MINUTES: September 1, 2009 Regular Meeting

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

FYI: The Home Occupation Ordinance #2009-08 was adopted on October 21, 2009 after a public hearing held by the Township Committee per Ms. Glashoff.

THE FOLLOWING ORDINANCES WERE INTRODUCED ON OCTOBER 7, 2009 AT THE TOWNSHIP COMMITTEE MEETING. THE PUBLIC HEARINGS WILL BE HELD ON NOVEMBER 4, 2009. ORDINANCES BACK FOR COMMENT BEFORE PUBLIC HEARING.

- a. Minor Site Plan Ordinance #2009-09
- b. Amend Fee Schedule #2009-10
- c. Amend Existing Checklist #2009-11
- d. Minor Site Plan Checklist Ordinance #2009-12

Vice Chair Doreen Bleck asked for any comments by the board on the 4 ordinances. Mr. Rich asked Planner Bolan if we are going to add the wording that is in the Minor Site Plan Ordinance so the neighbors within 200' will be notified. Mr. Rich said the board had talked about it at length at a prior meeting. Attorney Gallina said in the MLUL it is a requirement to have a public hearing. Attorney Gallina stated that the board will need to amend the notice ordinance. At the conclusion of the discussion, the board agreed that all these ordinances are ready for adoption. Ms. Glashoff asked if the board wanted Attorney Gallina to prepare a draft of the notice ordinance for the next meeting on December 1st. If so, then it will go to the Township Committee for introduction until January 2010.

ITEMS FOR DISCUSSION:

a. Budget 2010

Ms. Glashoff stated that she didn't put anything in the line item for Highlands since the work being done is covered under the grant money. In reviewing the proposed budget Ms. Glashoff said she made a few more adjustments. Planner Bolan noted that we don't know if there will be grant money in 2010 and suggested putting the \$2,000.00 back into the budget and hopefully there will be grant money. Vice Chair Bleck asked if the board wanted to go thru each line item. Chairman MacQueen took over the meeting at this time. Chairman MacQueen asked if we have grant money left over. Planner Bolan said yes, as of today, but by December 8th probably not. Planner Bolan said the monies are allocated to specific items. The 7 modules that fall under the grant are: build out analysis, land use analysis, environmental resource housing plan, master plan, zoning ordinance and municipal assessment. Chairman MacQueen asked for any other comments. At the conclusion of the board's discussion, motion by Ms. Bleck and seconded by Ms. Schriver to approve the budget as amended. Unanimously approved.

**b. Alternative Energy Ordinance (Memo from Planner Bolan) Issues are setbacks and height
(Copy of Boro of West Cape May on Solar Energy Systems)**

Planner Bolan said originally the subcommittee had scheduled a solar person to come in and decided to have them come to the full board. Ms. Glashoff said she brought it a couple of meetings ago to have Roger Dixson come in to talk about Wind Energy. The board decided it wasn't necessary. Planner Bolan said he will put together an ordinance to have for the December 1st meeting. Chairman MacQueen said that when he talked to Planner Bolan at a Board of Adjustment Meeting, he had suggested splitting out the solar panels and wood boilers for an ordinance and have the board work on the wind mill portion separately. Chairman MacQueen said they had an application for an Appeal at the Board of Adjustment. Attorney Gallina informed the board what had transpired at the Board of Adjustment Meeting last week. The Zoning Officer had denied the application stating that it was not a permitted use. The property in question is in the R3 zone where customary accessory uses are permitted. The Zoning Board felt it was an accessory use since it was to heat the house and overturned the zoning denial with the stipulation that it doesn't mean it complies with state/local or federal standards regarding smoke emissions. The overturn is only for that application, it does not apply to everyone. Chairman MacQueen stated that if the applicant had come in for an Interpretation it would have set a precedent and the Zoning Officer could deny all of them. As an Appeal we could overturn his decision.

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Planner Bolan said the issue is; is it a customary accessory use. Chairman MacQueen said the applicant's property was large and the setback complied and the applicant even volunteered to comply with our ordinance once it went into effect. Mr. Rich asked if we are going to have an ordinance for solar and wood burning furnaces and then work on wind mills. Planner Bolan said of the 3 different systems, the wind mill will be the most controversial. If the board wants to move on the solar and wood boilers then separate them out. Mr. Rich expressed concern since this subject was discussed at length a few meetings ago and he thought that an ordinance was forthcoming and went over all the items that the board discussed back then. Mr. Piasecki agreed, but said the board decided to wait since Mr. Rich missed the meeting where there was a lot of discussion on this. Ms. Bleck said the board did agree on 7½ acres, but giving this more thought felt there are not enough lots in the Township that would qualify and it would be limiting the number of people that could qualify and maybe the board should be considering smaller lots with 5 acres. Mr. Piasecki suggested waiting until Mr. Rich was present to continue this discussion. The board continued with the discussion and in conclusion decided to have Planner Bolan prepare an ordinance for the December 1st meeting.

c. Amend Ordinance 400:54D(5) (h) Number of Meetings charged to Escrow – Attorney Gallina

Attorney Gallina went over the proposed amendment to the ordinance on meetings charged to escrow. At the conclusion of the board's discussion, motion by Ms. Bleck and seconded by Ms. Schriver to approve the amended ordinance with a few corrections and send it to the Township Committee for Introduction. Unanimously approved. Ms. Glashoff informed the board since it is too late to have this ordinance adopted this year. She will ask the Township Clerk to have it on her agenda in January for Introduction.

**d. Review of the Highlands Plan Conformance , discussion on Modules 5-6 Master Plan/Highlands,
Natural Resource Inventory (Public Hearing on December 1, 2009)**

Planner Bolan said he wanted to discuss Module 6. The model ordinance the Highlands put out is 133 pages. Planner Bolan said at this time he made copies just of the Table of Contents. The ERI (Environmental Resource Inventory) has 34 colored maps. Colored maps are very costly to copy. Planner Bolan suggested putting this on a CD and also the website. It was suggested to make one complete set and put the rest on a CD for the board members and to make it available to the public. Ms. Glashoff asked if the one complete set, CD's and the cost of advertising can all come out of the grant money. Planner Bolan said yes. It would come out of the \$50 grant. All 7 modules will come out of the \$50. grant monies. Modules 5 (Master Plan) & 6 will be addressed at the public meeting.

At this time, Planner Bolan reviewed the ERI. Planner Bolan said when looking at these maps there are a lot of high quality forest and wildlife habitats. About 65% of the Township has habitats for rare, threatened or endangered species. This reduces the land area that can be used. Not the density but where development can occur. This is why our build out is low. There are water quality problems. There is stream flow deficit. Seven of the eleven sub-watersheds in the Township have a deficit on the stream flow which is reflected in the build out analysis. The question was asked about the time frame for the 20 new units. Planner Bolan said the 20 new units is forever and this is what the build out analysis shows with no non-residential development. The build out analysis is based on the natural resources more than the land use pattern. Ms. Glashoff asked about the non-residential units since there is an application before the Zoning Board in the Industrial zone. What happens. Planner Bolan said we will have an affordable housing obligation for those units. At this time we have a total obligation of 4 COAH units. Since January 2004 through end of 2008 the Township has issued 29 CO's, which is equivalent to 7 affordable units. We are in the hole for 7 affordable units. Planner Bolan clarified that we meet the Highland standards but not the COAH standards.

The other important thing is the septic system density that relates to the nitrate standards which varies for the different types of areas that we have in the Township. We have protection zones, conservation zones and conservation environmentally constrained zones. In the conservation zone the target nitrate concentration is 1.87 parts per million and that gives us 8-10 acre lots. In the protection zone which is about 70% of the Township the septic system density is based on a 0.72 parts per million nitrate standard are 21-26 acres. During the discussion,. Planner Bolan noted that our Housing Plan isn't due until June 8, 2010. Planner Bolan said there are additional scientific studies that are being done that may alter everything in 2010. This conformance we are applying for on December 8th is not for full plan conformance. It is a preliminary plan conformance. Planner Bolan said he will do CD's, copy and maps and asked if everyone wanted CD's. The consensus was yes.

Mr. Rich asked about the 20 buildable lots. Planner Bolan said the build out capacity is 20 residential units. Mr. Rich asked if the Highlands designated where those units might be. Planner Bolan said no, but if you look at the watershed maps which will show the places where there is a deficit in the stream or in the ground water, those will not be getting units. That is 7 of the 11 sub-watersheds which are each 2-3 square miles. From that map you would have a good sense of where houses can be built. Planner Bolan said that a well study will need to be done for each new lot, like what is required in our Aquifer Well Test Ordinance. Mr. Rich asked if this would be for a building permit or a subdivision. Planner Bolan said he would check the ordinance.

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Mr. Piasecki noted all the restrictions that Planner Bolan mentioned,. How do you know you can put houses on them and that they will meet the criteria? The 20 unit designation is not an exact science said Mr. Piasecki, it's a planning tool. Planner Bolan said the Township can't decide who is exempt. You would have to make an application to the Highlands and submit the information and then the Highlands will decide who is exempt. Mr. Rich asked if you meet the exemptions, and the lot existed prior to the date that it may not be buildable? Planner Bolan said that he thought the exemptions would over-ride. Mr. Rich said he read an article which throws it back onto the Township referring to the Lucas case, which states that the residents will pay for just compensation. Mr. Rich read the article to the board. It was noted this article was with the information from David Shope. The board discussed briefly the information they received from Mr. Shope. Planner Bolan asked the board if they would be interested in being a sending district regarding TDR's since we are not in a position to be a receiving district. Mr. Piasecki asked if this would benefit us. Planner Bolan said he thought it would. The board briefly discussed the TDR's.

Planner Bolan handed out to the board the Table of Contents for the Highlands Preservation Area Land Use Ordinance and went over all the articles noting those line items to be eliminated along with discussing line items that are pertinent. Planner Bolan said that the board has to do the ordinance in a Track Changes Version to see what we are removing for the meeting on December 1st. In Article 4 the following line items will be removed: Wildlife management Sub-Zone ,Community Zone - Environmentally Constrained

Zone, Community Sub-Zone and Lake Management Area. In two other Articles the Lake Management Area needs to be removed. Planner Bolan referred to the 7 acre piece on Route 31. There was an administrative decision by the Highlands. Based on information provided by a property owner in Clinton Township that the legislative description of the boundary should be interpreted differently. This caused seven acres to be taken out of the preservation zone and put in the protection zone. Planner Bolan suggested showing it as being in the preservation zone which we can do. It will simplify the ordinance. The question was asked what the difference is between the preservation zone and the protection zone. Planner Bolan noted that there was not much of a difference because they are very similar.

Planner Bolan said to incorporate this ordinance into our existing zoning, site plan, subdivision ordinances would be monumental job. He feels this will be as a stand alone ordinance. This is not something that needs to be decided now. Ms. Glashoff asked about the Resolution to be adopted by the Township Committee the following evening. Planner Bolan will forward the resolution to her for the Committee. Planner Bolan said what we are doing on December 1st is to meet the December 8th deadline with the Township Committee adopting the Resolution on December 2nd.

PRESENTATION OF BILLS & REPORT:

a. John Gallina, Esq.	\$ 1,330.00
b. Michael Bolan, PP	\$ 2,598.60
c. Bayer/Risse Engrs.	\$ 358.50
d. H.C. Planning/Zoning Admin.	\$ 26.00
Total:	\$ 4,313.10

Motion by Ms. Schriver and seconded by Ms. Bleck to approve the bills for payment as amended. Unanimously approved.

Chairman MacQueen asked about the Fire Tank for the Crossroads Camp. Engineer Risse said the tank has been ordered and is in production. Ms. Glashoff stated that she had received a call from the Project Manager at Crossroads and they want to move the Director’s house 100’ down the road. Ms. Glashoff told him that he would have to talk with Engr. Risse to see if this would be considered a major or minor change to the site plan. Engr. Risse spoke with Attorney Gallina and it was decided that Crossroads would need to come in to the board for an amendment to their site plan.

CORRESPONDENCE:

OPEN TO THE PUBLIC

Mr. Piazza was present to discuss COAH accessory apartments. Mr. Piazza asked the board to consider amending the COAH accessory apartment ordinance to allow apartments on smaller lots. Mr. Piazza noted in the Home Occupation Ordinance there is no restrictions regarding lot sizes. At the present time they are allowed on 5 acre lots or larger in the R3 and R5 zones. In the RC zone is 11 acres. Mr. Piazza suggested the board look into the ordinance for any amendments.

Being no further business to come before the board, nor comments from the public, motion by Ms. Bleck and seconded by Ms. Schriver to adjourn the meeting at 8:45 p.m. Unanimously approved.

CHAIRMAN GARY MACQUEEN

GAIL W. GLASHOFF, PLANNING BOARD CLERK