

REGULAR MEETING

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

December 12, 2006

The 793rd Regular Meeting of the Lebanon Township Planning Board was called to order at 7:02 p.m. by Chairman Gary MacQueen. Present were: Mr. Schmidt, Mr. Gerlich, Mr. Piasecki, Mr. Rich, Ms. Bleck, Mr. Spatz, 1st Alternate Weiler, Attorney Gallina 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 December 1, 2006.

The Chairman will announce that the Planning Board will meet in Executive Session and called for a motion.

Motion by Ms. Bleck and seconded by Mr. Spatz to have the Planning Board meet in Executive Session at this time. Unanimously approved.

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 Township Committee meetings where certain matters are to be discussed; and

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

NOW, THEREFORE BE IT RESOLVED, by the Lebanon Township Planning Board of the Township of Lebanon, Hunterdon County, New Jersey, that this Board meet in Executive Session at 7:00 p.m.

The Chairman will ask for a motion to reconvene the Regular Meeting of the Planning Board.

Motion by Mr. Piasecki and seconded by Ms. Bleck to close the Executive Session and return to the Regular Meeting. Unanimously approved.

PRESENTATION OF MINUTES: November 7, 2006 Regular Meeting

Mr. Rich said the minutes looked good and made a motion to approve with a second by Mr. Spatz. Unanimously approved.

FYI: NJDEP Highlands Update

APPLICATION TO DEEM COMPLETE/REQUEST FOR WAIVERS SET PUBLIC HEARING DATE:

- a. Omnipoint Communications Block #11 Lot #43
Conditional Use/Site Plan for Cell Tower Route 513 Route 513 R3

Mr. Jake Watkins, Zoning Coordinator for Omnipoint Communications and Mr. Charles Whelan, Architect where present to discuss completeness. Engineer Risse reviewed for the board his report dated November 7, 2006. Engineer Risse stated that the applicant is requesting waivers from the following checklist items: Items 18, 19, 26, 33, 35, 43, 64, 65 and 71. Items 18 (digital copy of plan in format approved by Board Engineer) & 19 (deed descriptions of all easements & ROW dedications which will be reviewed and approved by Board Attorney & Engineer) per Engineer Risse could be a condition of approval. Item 26 is the Key Map which is incorrect. The R5 zone was changed to RC 7½ back in May 2002. Mr. Whelan stated he will acquire an updated map. Item 33 (contours at 2' intervals within the site * within 200' of tract) Engineer Risse noted the applicant has provided 2' contours on site only but stated it would be acceptable because there is a limited amount of construction. Applicant is requesting a partial waiver from Item 35, all features are present on site but not 500' off site. Chairman MacQueen asked if we need to have this information for the 500' off site. Engineer Risse felt it was not a bad idea. Item 43 (location of flood hazard areas, wooded areas, tree rows, structures, stream corridors on property and within 500' of property) The applicant has provided the information on site but not off site and is asking for a

partial waiver. The board stated they would not grant waivers for Item 35 & Item 43 but would grant for completeness only. These items would have to be provided by the public hearing. Item 64 (location & dimensions of off street loading areas) & Item 65 (specifications and lighting for all outdoor signage), the board agreed to grant these waivers. Item 71 (drawings depicting all the proposed site improvements etc.), Engineer Risse agreed this item can be provided at a later date. Ms. Glashoff asked about any amendments to the plans. Engineer Risse stated that only the one page would need to be provided and that the present plans are sufficient for review before the public hearing by the board. Ms. Glashoff stated that she will send the additional page to the board before the public hearing.

Ms. Bleck asked for clarification regarding Item 33 (contours). Chairman MacQueen asked about the variances being requested. Engineer Risse stated that variances are needed because the requirement of 1000' from residential dwellings can not be met. Mr. Whelan stated that at the time they were looking at houses that were within the 1000' they did not include the dwelling on the property which is within 240' of the proposed cell tower. Engineer Risse noted that on a previous application where residences were involved the applicant had to show on the plan the footage of each house from the purposed Cell Tower

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that was less than 1000'. Chairman MacQueen asked what the size of the property was. Mr. Whelan stated 6.84 acres. It was noted that the property was located in the R3 zone. Attorney Gallina asked if there was already a dwelling unit on the property. Mr. Whelan answered yes. Attorney Gallina stated that our ordinance only allows for one principal structure on a property and referred to Section 18-3.4b5 which states: in the R3 zone there shall not be more than one principal structure constructed on each lot. At this point there was lengthy discussion on which board the application would go before. In conclusion, the board decided to deem the application complete and grant the following waivers: Checklist Items 18, 19, 33, 64, 65 & 71 and subject to the review by Attorney Gallina as to which board the application should appear with a motion by Mr. Piasecki and seconded by Mr. Spatz. Unanimously approved.

INFORMAL:

Michael & Caroline Burchill
127 Raritan River Road
Califon, N.J. 07830

Block #19 Lot #23
Raritan River Road R3

Discuss creating a 1 acre undersize lot in a R3 zone

Attorney Gallina informed the board that in the event of a bulk variance application approval, the applicant would appear before the Planning Board, if a D Variance was required then the applicant would appear before the Board of Adjustment. Attorney Gallina stated that a D Variance was not required with this application.

Mr. Burchill stated that his neighbor across the road had approached him on acquiring a 1 acre parcel. Mr. Burchill informed the board that his lot is 2.49 acres which is a non-conforming lot in the R3 zone. He would like to subdivide off a 1 acre parcel which would make his lot more non-conforming. Basically all the lots down on Raritan River Road are all non-conforming. The 1 acre in question is heavily wooded with stones and rocks. There would be no impact to the neighborhood. Mr. Rich stated that he did not have a problem with the proposal but would want to see restrictions placed in the deed. Mr. Piasecki concurred with Mr. Rich regarding the deed restrictions on the lot. Mr. Burchill stated that there was no intention in creating a building lot. His neighbor was just looking to have some additional property and no structures would be placed on the lot. Mr. Gerlich also concurred with Mr. Rich and Mr. Piasecki. Mr. Schmidt asked about the Highlands and if creating this lot would trigger any negative Highlands and would it cause any problems for the applicant if he wanted to do anything on their existing homes. Ms. Glashoff noted that the neighbor home is on a separate lot across the public road and wouldn't be affected. It was noted that having the deed restrictions would prevent any problems down the road since this is not

to be a building lot. Ms. Bleck stated that she also did not have a problem with proposal of Mr. Burchill. Mr. Spatz and Mr. Weiler did not have a problem but concurred with the other board members regarding the deed restrictions.

Chairman MacQueen asked about the dirt road that runs through that portion of the property and wanted to know if the ROW was being used. Mr. Burchill stated that when he purchased the property in 1992 he was told that it was a ROW for the Gas Company. Chairman MacQueen made note of the shed that a small portion was on the neighbor's property per the survey. Mr. Burchill stated that the shed is not on his property. Chairman MacQueen also noted that part of a parking area of a neighbor was also on the Burchill property. It was also noted that a new survey would have to be done and these items would need to be addressed. Ms. Glashoff stated that the R3 zone requires 250' of frontage which could present an additional variance for the applicant.

Chairman MacQueen informed the applicant that nothing said this evening is binding because this is an informal discussion but in the discussion the board seemed favorable to the request. Mr. Burchill will come in and see Ms. Glashoff to acquire all the forms (applications) that are needed to proceed. Mr. Burchill thanked the board for their input.

BOARD TERMS TO EXPIRE:

- a. Joshua Rich 4 Year Term Class IV
- b. Richard Weiler, 1st Alternate 2 Year Term Class IV
- c. Art Gerlich 1 Year Term Class II
- d. Mayor 1 Year Term Class I

Chairman MacQueen asked Mr. Rich, Mr. Weiler and Mr. Gerlich if they would like to be reappointed to the board. All said yes. At this time, Chairman MacQueen asked Mr. Spatz to make his announcement. Mr. Spatz informed the board that he has enjoyed the many years on the board but because of two many conflicts and commitments he was resigning from the board effective tonight. Ms. Glashoff noted that Mr. Spatz has been a member for 12 years with his first appointment starting in 1994. Chairman MacQueen informed Mr. Spatz that he will be missed. Ms. Glashoff stated that she will be putting a memo together to the Township Committee with the board's recommendations for appointments for 2007 which will include having Mr. Weiler move up to the unexpired term of Mr. Spatz. Mr. Spatz informed the board that in attending other Planning Board meetings in other municipalities that we have an excellent board to be proud of.

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ITEMS FOR DISCUSSION:

- a. Decide on whether to hold one meeting per month and whether to hold it on the 1st or 3rd Tuesday.**

The board decided to wait until the reorganization meeting to decide on whether to hold one or two meeting per month and if the decision was to have one meeting per month the board would need input from Planner Bolan regarding his schedule. Mr. Weeks was also not present for the discussion this evening.

- b. Set Date for Reorganization Meeting 2007 (January 16, 2007)**

The board agreed with the January 16, 2007 date for the Reorganization & Business Meeting.

- c. Budget 2007**

The board reviewed the budget that was prepared by Ms. Glashoff. Ms. Glashoff informed the board that she had contacted each professional for their input which appears on the purposed budget. Chairman MacQueen asked about the litigation line item. The board decided the purposed budget looked good. Motion by Mr. Rich and seconded by Mr. Gerlich to approve the budget as purposed and to have it sent on to the Township Committee for final approval. Unanimously approved.

d. Draft of Amended Fee Schedule – Attorney Gallina

Attorney Gallina went over the draft of the amended Fee Schedule with the board. The Escrow for Conditional Uses will be 200% from being the same as the application fee and all Variances will go from 150% to 200% of the application fee. At the conclusion of the brief discussion, motion by Ms. Bleck and seconded by Mr. Rich to approve the amended Fee Schedule and to send it to the Township Committee for Introduction and Adoption. Unanimously approved.

e. Lebanon Township Municipal Assessment prepared by NJ Water Supply Authority

Ms. Glashoff asked if the board after reviewing this Assessment prepared by NJ Water Supply Authority wanted to have Mr. Bob O'Neil come in to discuss the assessment. The board felt the assessment prepared by the Water Supply Authority was well done decided it was not necessary to have Mr. O'Neil come in to speak to the board and asked Ms. Glashoff to convey this to Mr. O'Neil.

f. Lebanon Township Road Garage – Planner Bolan

Warren Newman, Chair of the Environmental Commission was present to discuss the Diamond Property on Anthony Road. In researching the property Mr. Newman found that since the early 1980's the property has been listed under four different names: Diamond East Laboratories, Electro Organic Site, Selvack Co and Washington Labs Inc. The information on this site is found on the Superfund Site Data Base and the NJ State Site Remediation Files. The property has a long history but not everything has been resolved. The enforcement history in 1981, the site was discovered by the EPA which was reported as a potential problem site, in 1985 a preliminary assessment was done by the DEP and listed as a high priority which meant that more investigation was to be done, in 1989 a site inspection was done by DEP. It was then sent to the EPA hazardous waste group. In 2000 the EPA reviewed the site and assessed the site for removal of hazardous waste or hazardous materials. In 2002 enforcement actions on removal negotiations between the EPA and the property owner which lead to an administrative order of consent later in the year. This is a voluntary agreement by the property owner that the responsible party would conduct appropriate removal activity. Late in 2002 it switched from EPA enforcement back to the property owner because of the order of consent. Mr. Newman stated the status of this property now, it is not a superfund site, not a federal site and not on the National Priority List.

There are archived files from 1985 & 1989 consisting of about 2000 pages that the State got back to Mr. Newman on. Mr. Newman stated that he has not reviewed these files. He is also waiting on a call back from the EPA. Mr. Newman informed the board from the information he has this looks like a can of worms with a certain level of investigation that has been done and determined there is some identified hazardous material or hazardous waste which might not have been cleaned up. Mr. Newman suggested that it hasn't cleaned up because there would have been something in the records to indicate it. For the last four years it has been stagnated suggesting that nothing has been done at any major level.

Mr. Newman recommended to the board that they tread very carefully on this type of property with giving the history, and with the first level of investigation being done which suggests that there are some problems that have to be dealt with and the responsible party has agreed to address them but hasn't which means you have an opened ended situation. We don't know if there is any groundwater impact. Mr. Spatz stated that if this site is still a problem something should be done. At this point, Chairman MacQueen thanked Mr. Newman for taking the time to check into all this for the board. Mr. Rich asked if the Township Committee should be made aware of this, since this is all new information that has been brought to our attention. Mr. Newman read to the board the Administrative Order on Consent. It is very

clear that from this consent order that site cleanup is still needed. Attorney Gallina stated that this is a legally binding document that is enforceable. Chairman MacQueen noted at this time we do not know the extent of all this. But we do know that in 4 years there has been no closure per Mr. Newman. Mr. Rich asked if we should write a letter to NJDEP. Mr. Newman suggested the EPA at the Federal level. Mr. Newman stated that we don't know what extent any cleanup would be, it could possibly cost hundreds of thousands of dollars. It was noted that more assessment was needed on this property. Attorney Gallina informed the board that it isn't up to the Planning Board to write a letter, it should either come from the Township Committee or the Environmental Commission. Mr. Newman stated that he will either write a letter or go in person to the Township Committee with this information

g. Fence/Monuments/Pillars on Residential Properties – Planner Bolan

Since Planner Bolan and Mr. Weeks were not present it was decided to place this item on the January 16th agenda for discussion.

PRESENTATION OF BILLS & REPORT:

a. John Gallina, Esq.	\$ 378.30
b. Banisch Associates	\$1,715.90
c. Bayer/Risse Engrs.	\$ 353.50
Total:	\$2,447.70

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

Chairman MacQueen and the board thanked Warren Newman again for all his work and effort regarding the Diamond property.

Being no further business to come before the board, nor comments from the public, motion by Mr. Rich and seconded by Mr. Spatz to adjourn the meeting at 8:50 p.m. Unanimously approved.

CHAIRMAN GARY MACQUEEN

GAIL W. GLASHOFF, PLANNING BOARD CLERK