

## REGULAR MEETING

**Lebanon Township Board of Adjustment**

**February 24, 2010**

**Municipal Bldg 530 West Hill Road Glen Gardner, N.J.**

The Regular Meeting of the Lebanon Township Board of Adjustment was called to order at 7:32 p.m. by Chairman Bruce Terzuolo. Present were: Mr. Kozlowski, Mr. MacQueen, Mr. Perry, Mr. Nagie, Mr. Eberle, 1<sup>st</sup>. Alternate Machauer, 2<sup>nd</sup> Alternate Maurizio, Attorney Gallina and Planner Bolan. **Excused:** Mr. Abuchowski.

This meeting was noticed in the “Annual Meeting Notice Schedule” adopted by this board on January 27, 2010, mailed to the Hunterdon Review, Hunterdon County Democrat, Express Times, Courier News, Star Ledger and posted on the bulletin in the Municipal Building on February 17, 2010.

**PRESENTATION OF MINUTES:** January 27, 2010 Reorganization/Regular Meeting

Motion by Mr. Kozlowski and seconded by Mr. Eberle to approve the minutes as corrected.  
Unanimously approved.

### **ITEMS FOR DISCUSSION:**

#### **a. Annual Report 2009 – Planner Bolan**

Planner Bolan reviewed for the board the annual report that the MLUL requires the board to do on an annual basis. Attached to the Annual Report is the report submitted by Ms. Glashoff regarding the applications that are approved and denied during the prior year. Planner Bolan asked if the extension period on applications been amended to request that an extension must be made before the time period expires and if the extension is not requested before the time lapses then the applicant must reapply. Attorney Gallina said he did not recall if that amendment had been made and Ms. Glashoff stated that the board has discussed it but nothing has been done. During the board’s discussion, Attorney Gallina suggested that even with the ordinance amendment, the resolutions should be very clear what happens if

you don't get back in for an extension. Attorney Gallina said he will put together an amendment to the ordinance and put some wording together for the board to include in the resolutions.

Planner Bolan said in his memo the board relies on the enforcement of certain conditions as an important part of granting the variance, the board recommends diligent enforcement of those conditions by the Zoning Officer and Construction Official. The Township needs to develop a better system for the sharing of information and the tracking of application approvals.

Planner Bolan noted in Section 400-10A(7) it refers to structures housing farm animals that the setback is 100' to any property line and 200' from any residence on adjacent property. In the R3 & R5 zone the lot width is 250'. The recommendation now is that the enhanced setbacks for structures housing farm animals be eliminated and that structures used for farm animals be subject to the general standards for principal and accessory buildings and structures.

Planner Bolan noted the accessory apartment ordinance needs to be revised to include the specific date of July 1, 1987 on which a structure must have been in existence for an accessory apartment to be permitted in order to avoid confusion in the future. Planner Bolan also suggested that the ordinance be amended to require the Natural Resource Conservation Service approvals be in place prior to construction of pre-existing lots with slope constraints and other environmental concerns. The board asked who they were and Planner Bolan said that H.C. Soil Conservation District had changed their name. The name needs to be changed in our ordinance book.

Mr. Machauer asked if it were improper to ask the Zoning Officer to share and track information on applications that have been denied by the board. Ms. Glashoff informed the board since she knew what Mr. Machauer was referring to and that an application was given out and the applicant has retained an attorney, but nothing has been filed as yet. The board asked that Ms. Glashoff speak to the Zoning Officer on this matter.

**b. Question on Taxes being current with ongoing public hearings – Attorney Gallina**

Chairman Terzuolo said there has been concern with applications before the board and taxes are delinquent and Attorney Gallina was asked to check into whether we can require that taxes are kept current. Attorney Gallina handed out to the board a copy of his letter regarding taxes being current. Attorney Gallina informed the board that in researching the law, an applicant may be

required to have taxes paid to date in order for an application to be heard, but cannot require

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proof of taxes paid to date for continuation of public hearings. Attorney Gallina quoted the N.J.S.A. 40:55D-65h from the MLUL. Attorney Gallina stated that if taxes are not current at the conclusion of a public hearing, the board can make as a condition of approval that taxes must be paid and current before the application is finalized.

### **c. Proper Procedures to follow**

Mr. Maurizio asked to have proper procedures on the agenda to clarify certain items. For an example, he did not know that he was unable to second motion as an alternate. Also, what questions are we allowed to ask to an applicant or a witness during a public hearing. Attorney Gallina said a board member can ask just about anything and if he or the applicant's attorney feels the question is irrelevant, the attorney will say something. Regarding making motions, voting Ms. Glashoff said either two regular members would have to be absent or a regular member and the 1<sup>st</sup> Alternative would have to be absent for the Alternate II to make a motion and vote.

Attorney Gallina mentioned the By-Laws, Ms. Glashoff will send copies to the board for review and see if they need updating, since it has been awhile. Chairman Terzuolo brought up the subject of when the board deliberates. Each member has to give there reasons for approval or denial and just not say they agree with one or more of the other board members. Chairman Terzuolo said each member has to articulate reasons during the board's deliberations. You can agree with a board member's comments but you have to add your own comments.

### **d. Have the Resolution designating the Zoning Officer and/or Engineer to follow thru**

**on conditions that require professional review and sign off.**

Chairman Terzuolo said that in speaking with Ms. Glashoff, she had suggested having it spelled out if a professional needs to follow thru on a condition of approval. She also mentioned that the Zoning Officer would prefer that it be spelled out if he is to follow up with a condition in the resolution so there is no misunderstanding whose responsibility it is. Ms. Glashoff said in the Davara Resolution from 1996 it

states that the Zoning Officer will do no less than two inspections during the year, but can do more if they feel it is necessary. The board discussed this issue at length.

**e. Recommend appointing a board member to review the bills before approval**

Chairman Terzuolo asked about this request. Ms. Glashoff informed the board that at the Planning Board, the Board Secretary Mr. Gerlich reviews the bills and makes the recommendation for approval. If there is a question on a specific bill, Mr. Gerlich will ask the professional about the bill. Mr. MacQueen explained to the board exactly how it works with the Planning Board. Motion by Mr. Maurizio and seconded by Mr. Eberle to appoint Mr. Kozlowski to review the bills. Unanimously approved.

**f. Anything else the board wishes to discuss**

Mr. Nagie mentioned the meeting where the board went off on a tangent and ended up spending 2 hours on an application that should not have taken more than 1 hour. This was regarding the wood burning furnace. Also with the Transtar application time was spend discussing the site plan instead of staying on track with the Use Variance. Attorney Gallina said the application started out with Use Variance and Site Plan before the application was bifurcated. The board discussed these two issues at length. At the conclusion of the board's discussion, Chairman Terzuolo asked for the bills.

**PRESENTATION OF BILLS:**

- a. John Gallina, Esq.                    \$316.25 – Escrow (**Transtar**)  
    \$201.25 – Phone confs. w/Chair & Bd Sec. Mtg attendance 1/27
- b. Michael Bolan, PP                    \$127.80 – Attend Bd Mtg 1/27, review Annual Report  
    \$511.20 – Escrow (**Transtar**) Attend Mtg 7/8/09  
    \$511.20 – Escrow (**Transtar**) Attend Mtg 1/27/10
- c. Bayer/Risse Engrs.                    \$179.25 – Attend Reorg. Mtg 1/27/10  
    \$537.75 – Escrow (**Transtar**) Attend Mtg 1/27/10, review

Transcripts, minutes, plans

**Total: \$2,384.70**

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Ms. Glashoff informed the board she had one additional bill to add. The bill is from Attorney Gallina regarding Litigation in the amount of **\$1,897.50**. This brings the grand total to **\$4,282.20**. Motion by Mr. MacQueen and seconded by Mr. Perry to approve the bills as amended. Unanimously approved.

**CORRESPONDENCE:**

a. Zoning Law 1/25/2010

b. Law Bulletin 2/2010

Being no further business to come before the board, nor comments from the public, motion by Mr. MacQueen and seconded by Mr. Nagie to adjourn the meeting at 8:27 p.m. Unanimously approved.

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**CHAIRMAN BRUCE TERZUOLO**

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**GAIL W. GLASHOFF, BOARD SECRETARY**