

REGULAR MEETING

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

February 27, 2008

The Regular Meeting of the Lebanon Township Board of Adjustment was called to order at 7:36 p.m. by Chairman Bruce Terzuolo. Present were: Mr. Machauer, Mr. Kozlowski, Mr. MacQueen, Mr. Perry, Mr. Abuchowski, 1st Alternate Eberle, 2nd Alternate Maurizio, Attorney Gallina and Planner Bolan. **Excused:** Mr. Nagie

Notice of this meeting was provided for in the "Annual Meeting Notice Schedule" adopted by this board on January 23, 2008, 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 February 20, 2008.

SWEAR IN: Al Nagie Class IV 4 Year Term

Since Mr. Nagie was not present, he will be sworn in at the March 26, 2008 Board Meeting.

PRESENTATION OF MINUTES: January 23, 2008 Reorganization & Regular Meeting

Motion by Mr. Kozlowski and seconded by Mr. Perry to approve the minutes as presented. Unanimously approved.

RESOLUTION:

- a. Maria Sydor Block #41 Lot #2.05
Appeal – denied Vernoy Road I5

Motion by Mr. Kozlowski and seconded by Mr. Maurizio to approve the Resolution for an Appeal as presented.

ROLL CALL **Yes:** Mr. Kozlowski Mr. Perry **Abstain:** Mr. Machauer **Absent:** Mr. Nagie
Mr. MacQueen Mr. Maurizio Mr. Eberle
Mr. Terzuolo Mr. Abuchowski

PRESENTATION OF BILLS:

- a. John Gallina, Esq. \$230.00 –Attend Mtg 11/28/07
\$402.50 –Phone conf. w/Bd Secretary re: accessory structures
Height of accessory structures, solar panels. Attend
Mtg 1/23/08
\$143.75 - Escrow Resolution (**Sydor**)
- b. Court Stenographer \$200.00 – Attend Mtg 2/27/08
- c. Michael Bolan, Planner \$260.00 – Attend Mtg 1/23/08
\$ 85.20 - Review Appeal Application Escrow (**Sydor**)
- Total: \$1,321.45**

Ms. Glashoff informed the board that she had two additional bills to add both from Planner Bolan and review the vouchers for the board. Motion by Mr. Perry and seconded by Mr. Abuchowski to approve the bills as amended. The original total was **\$976.25** and is now **\$1,321.45**. Unanimously approved.

CORRESPONDENCE:

EXTENSION OF TIME:

Lisa Fern Falcon, M.D. Block #35 Lot #37
Approved application to build Antler Road RC 7½
on a private road with conditions.
Amend condition #7

Correspondence included

Mr. MacQueen recused himself since he is an adjoining property owner. Attorney Steven O'Malley represented the contract purchaser of the property Lisa Falcon. Attorney O'Malley informed the board since the 18 months was going to expire on March 13, 2008, Ms. Falcon is asking for an extension of 6months in order to obtain the necessary building permits. Attorney O'Malley stated that Ms. Falcon has spent a considerable amount of time dealing with a builder

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developing plans for a home and eventually had to change to another contractor whom she is working with now. Also condition #6 regarding the road improvements, the improvements will not be able to be completed until spring. With all this yet to be completed, the applicant is requesting an extension of 6 months per Attorney O'Malley.

Attorney Gallina noted that in Engineer Lorentz's letter the request of 6 months was not unreasonable and there have been no changes in zoning since the original approval by the board. Also in Engineer Lorentz's letter, he recommended that the Fire Chief inspect the improvements since he would be better qualified to assess the issue of providing emergency access to the property.

During the board's questions of the applicant, they found that the applicant has demonstrated good cause for the extension of time. It was suggested to the applicant that an extension of time of 1 year would be more reasonable considering everything that needs to be accomplished.

Chairman Terzuolo opened the hearing to the public, there were no questions. Since this is not a public hearing, Chairman Terzuolo asked for a motion. Motion by Mr. Maurizio and seconded by Mr. Kozlowski to grant the extension of time for a period of one year, expiring on March 13, 2009 and with the Lebanon Township Fire Chief to do the inspections and approved before any construction permits being issued.

ROLL CALL	Yes: Mr. Machauer	Mr. Abuchowski	Absent: Mr. Nagie
	Mr. Kozlowski	Mr. Eberle	
	Mr. Terzuolo	Mr. Maurizio	
	Mr. Perry		

Attorney Gallina will prepare the Resolution to be placed on the next meeting agenda of March 26, 2008

NEW BUSINESS:

Robert & Sherry Dell Elba
86 West Steward St.
Washington, N.J. 07882

Block #69 Lot #15
Musconetcong River Road R 1½

PUBLIC HEARING
(Ltr from Atty Gallina)

Waivers & Bulk Variances Section 400 Schedule I

Chairman Terzuolo asked Attorney Gallina if all the notices are in order. Attorney Gallina had the following items marked into evidence: **A1-Zoning Permit, A2-Taxes Paid, A3-Certified List of Property Owners (Leb Twp.), A4-Certified List of Property Owners (Washington Twp.), A5-Notice to Property Owners, A6-POD Slips, A7-Affadavit of Proof of Service, A8-Notice in Newspaper, A9-Survey prepared by Eldon Allen dated 4/15/02, revised 2/14/08.**

Attorney Stuart Ours represented the applicants and made a presentation to the board. Attorney Ours reviewed for the board the reasons for the variances. The following variances are being requested: lot area, lot width, lot frontage and front yard setback. The applicant would like to construct a home on the property which does not meet the bulk requirements for the R 1½ zone. Because of the steep slopes, the house needs to be placed in a portion of the front yard setback which requires a variance for the front yard setback.

At this time Robert Dell Elba was sworn in to give testimony. Attorney Ours passed around to the board the photos of the property which show the steepness and the narrowness of the property. Attorney Ours had photos marked into evidence. **A10-set of 7 photographs.** Mr. Dell Elba stated presently there is a small cottage on the property which will be demolished. They would like to build a 2 bedroom log home approximately 42x42. There is an existing well and functioning septic on the property. At the conclusion of the applicant's testimony, Chairman Terzuolo asked the board if they had questions of the applicant. Mr. Machauer asked about the 400' elevation line behind the house and the steep grade and noted that the area was heavily treed. Mr. MacQueen asked how long has the house been abandoned. Mr. Dell Elba answered 8-9 years. Mr. MacQueen asked about the well and the septic, has there been any testing on the well, is it a well pit or drilled well. Mr. Dell Elba said the well is a drilled well.

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Planner Bolan noted that the applicant is not requesting a variance for disturbance of steep slopes. If the County Board of Health requires the applicant to relocate the septic system, there is no variance being requested as part of this application. Planner Bolan stated that if the applicant has to move the septic from the front it will have to go on steep slopes in the back and he didn't think the board would want to grant that variance for steep slope disturbance. Also the SCS plan shows a topsoil stockpile located behind the proposed house in the steep slope area. The applicant agreed not to have the topsoil stockpile located in the steep slope area. At this time the following was marked into evidence: **A11-Plot Plan** prepared by Jess Symonds, Biggs Engrs. Dated 12/12/06, **A12-SCS Plan** prepared by Jess Symonds, Biggs Engrs dated 12/12/06, 3 pages.

Zoning Officer, John Flemming questioned the lot across the road that belongs to the applicant and noted that it is not unusual for people who have those small lots along a river seem to develop it without permits. Mr. Flemming stated that all you can do is mow the grass. Mr. Flemming suggested to the board that an as-built location survey be furnished when the new foundation is completed to confirm the existing building footprint. The applicant agreed to provide an as-built.

Chairman Terzuolo opened the hearing to the public for questions of the applicant. There were none. Chairman Terzuolo then opened the hearing to the public for statements and comments. There were none.

Attorney Ours gave his summation at this time. Chairman Terzuolo announced that the evidence taking portion of the hearing is now closed. The board deliberated at this time. The board found that removing the existing unsafe structure and replacing it with a new single family home would enhance the neighborhood. Due to the size, shape and slope of the lot, the applicant has demonstrated that the requested variances are reasonable and will not cause any detriment to the public good and not be detrimental to the zoning ordinance. At the conclusion of the board's deliberations, motion by Mr. Kozlowski and seconded by Mr. Perry to grant the bulk variances to construct a new single family dwelling on the property with the following conditions:

- a. The applicant shall obtain all other necessary approvals from all other agencies having jurisdiction, including by not limited to Hunterdon County Board of Health.
- b. All building permits shall be obtained within 18 months of the date of the Resolution.
- c. The proposed home will be built in the location as shown on the survey of Eldon Allen. The deck on the proposed new home will have a front yard setback of 28' from the Musconetcong River Road.
- d. An "As Built" survey will be furnished when the foundation of the new home is completed.
- e. The topsoil stockpile will not be located in the steep slope area of the property.

ROLL CALL Yes: Mr. Machauer Mr. Perry **Absent:** Mr. Nagie
 Mr. Kozlowski Mr. Abuchowski
 Mr. MacQueen Mr. Eberle
 Mr. Terzuolo

Attorney Gallina will prepare the Resolution for the next board meeting on March 26, 2008.

ITEMS FOR DISCUSSION:

- a. Annual Report – Planner Bolan**
- d. Trucks – Zoning Officer**

Planner Bolan reviewed for the board the Year End Report prepared by the Board Secretary. It was noted that the Cingular application was withdrawn not denied. During the discussion, Chairman Terzuolo brought up the subject of Trucks and Weights. The board discussed this issue at length. At the conclusion of the board's discussion, Planner Bolan will prepare the Annual Report for the board to review and approve.

- b. Extension of Time – Zoning Officer**

Mr. Flemming expressed concern regarding granting extension of time to an application when the approval time had already expired. Attorney Gallina said the ordinance states that if your time has expired you would need to reapply to the board. Chairman Terzuolo said that in our ordinance

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it states that if the time expires the variance is void. Attorney Gallina then stated that it is in Section 45-20. Attorney Gallina said in 20b it states “that if the applicant fails to obtain the necessary permits within such time then he has waived, withdrawn and abandoned his appeal to the board and the variance(s) are deemed automatically rescinded. In 20a it contradicts 20b and states “with good cause the applicant may apply in writing for an extension of either 6 months or up to 2 years. At the conclusion of the board’s lengthy discussion, Mr. Flemming stated he would like to see a formal policy developed addressing this issue.

c. Are Restaurants a permitted use in B2 – Zoning Officer

Mr. Flemming asked if there should be a sub category for restaurants in the B2 zone? The board felt this was covered under the parking and the general retail use in the zoning ordinance. Attorney Gallina quoted the section of the ordinance that referred to parking and retail.

OPEN TO THE PUBLIC

Being no further business to come before the board, nor comments from the public, motion by Mr. Maurizio and seconded by Mr. Eberle to adjourn the meeting at 9:15 p.m. Unanimously approved.

CHAIRMAN BRUCE TERZUOLO

GAIL W. GLASHOFF, BOARD SECRETARY