

REGULAR MEETING

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

April 23, 2008

The Regular Meeting of the Lebanon Township Board of Adjustment was called to order at 7:40 p.m. by Chairman Bruce Terzuolo. Present were: Mr. Machauer, Mr. Kozlowski, Mr. MacQueen, 1st Alternate Eberle, 2nd Maurizio, Attorney Gallina, Planner Bolan and Engineer Risse.

Excused: Mr. Perry and Mr. Abuchowski

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 April 16, 2008.

PRESENTATION OF MINUTES: March 26, 2008 Regular Meeting

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

FYI: Ethics Forms Due

RESOLUTIONS:

Donald J. Byk Block #49 Lot #87
Extension of Time Shady Lane R5
DENIED

Motion by Mr. MacQueen and seconded by Mr. Eberle to approve the Resolution of Denial for an Extension of Time. Unanimously approved by those eligible to vote.

Dennis & Jessica Huff Block #40 Lot #9
Bulk Variances with conditions Route 513 R 1½

Motion by Mr. MacQueen and seconded by Mr. Eberle to approve the Resolution for Bulk Variances with conditions. Unanimously approved by those eligible to vote,

Adam & Maria Duckworth Block #69 Lot #44
Bulk Variances with conditions Musconetcong River Road R 1½

Motion by Mr. MacQueen and seconded by Mr. Eberle to approve the Resolution for Bulk Variances with conditions. Unanimously approved by those eligible to vote.

PRESENTATION OF BILLS:

- a. John Gallina, Esq. \$316.25 – Escrow (**Huff**)
 \$431.25 – Escrow (**Duckworth**)
 \$345.00 – Escrow (**Byk**)
 \$172.50 – Escrow (**Transtar Trucking**)
 \$460.00 - Escrow (**Giordano**)
 \$460.00 – Attend Bd Mtg 3/26/08 Phone Conf. w/Chair & Bd Sec.

b. Bayer/Risse Engrs \$690.00 – Escrow (**Transtar Trucking**)
c. Court Stenographer \$200.00 – Attend Mtg 4/23/2008

Total: \$3,075.00

Motion by Mr. MacQueen and seconded by Mr. Eberle to approve the bills for payment.
Unanimously approved.

CORRESPONDENCE:

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ITEM FOR DISCUSSION:

a. Annual Report 2007 – Planner Bolan

Planner Bolan reviewed for the board the draft of the Annual Report. In the report are carry-over recommendations from the previous year. Planner Bolan referred to the ordinance regarding length of time to acquire permits, it states 6 mos. Planner Bolan noted the board has been granting 18 months and the ordinance should be amended to reflect this. The board agreed. At the conclusion of the board's discussion, motion by Mr. MacQueen and seconded by Mr. Kozlowski to approve the 2007 Annual Report and have it forwarded to the Planning Board for their review and consideration. Unanimously approved.

NEW BUSINESS:

Anthony Giordano 508 Waterview Place New Hope, Pa 18938	Block #57 Lot #38 Mountain Top Road RC 7½
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PUBLIC HEARING **Use Variance/Request for Waivers**
Relief to have 2 principal structures

Attorney William Ganos was present to represent the applicant Anthony Giordano. Attorney Ganos stated the applicant is before the board this evening for a (Use) D Variance. The property consists of 60 acres and presently has two principal structures. They would like to replace both houses with larger houses. At this time, Attorney Gallina announced the notices are all in order and the applicant proceed. The following items were marked into evidence: **A1-Zoning Denial**, **A2-Taxes Paid**, **A3-Certified List of Property Owners**, **A4-Notice to Property Owners**, **A5-POD Slips**, **A6-Affadavit of Proof of Service**, **A7-Notice in Newspaper**. The following people were sworn in to give testimony: Board Engineer Steve Risse and applicants professional James Chmielak, P.E. /Planner. Engineer Risse reviewed for the board the waivers that are being requested. At the conclusion of the board's discussion with Engineer Risse, motion by Mr. MacQueen and seconded by Mr. Kozlowski to grant the waivers requested. Unanimously approved.

James Chmielak stated that he is a licensed Engineer and Planner with Engineering and Land Planning Associates of Clinton. Attorney Ganos had Engineer Chmielak give testimony on behalf of the applicant. The following items were marked into evidence: **A8-Planning Outline of Testimony/Report/Variance Application dated April 18, 2008**, **A9-7 Historic pictures on two boards dated April 23, 2008**, **A10-Survey of property prepared by Robert Ent dated March 5, 2008**, **A11-Site Plan/Variances, Sheet #2 dated March 7, 2008**.

Engineer/Planner Chmielak stated the property consists of 60.75 acres in the RC zone with frontage on Mountain Top and Hollow Roads. The property has been an active farm and the 2 houses were originally built in 1735. Back in the 1930's the Symonds family farmed the land. Mr. Giordano purchased the farm in 1982. On the property are a framed garage, barn, Agricultural building and Riding Arena on the northern portion of the property. The tenant dwelling unit is 600 square feet. On Sheet #2 which is the overall Site Plan of the property, is color coded with a 150' wetland buffer being shown which is in compliance with the DEP. There is only 1 well on the property to serve both houses. Each house has its own septic system. Both new houses will have their own well and the main house will have a new septic system. Engineer Chmielak stated that if this application is approved, the applicant will apply to the County Board of Health.

Engineer/Planner Chmielak informed the board that even though the property is in the preservation zone of the Highlands, Highlands's approval is not necessary since Mr. Giordano has owned the property since 1982, prior to the Highlands Act of 2004. Engineer Chmielak stated he spoke to the DEP and they confirmed that Highlands's approval isn't required.

Engineer/Planner Chmielak referred to the Planning Outline, Exhibit **A8**, Section 2 Relief Requested stating they are requesting relief in the form of a "deminimus exception" for water quality treatment of the runoff from the proposed residential driveway areas. This is based on the site topographic site constraints where strict compliance with the DEP BMP manual would result

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in a hardship. The residential use of the new driveways will not result in an adverse impact on water quality. The proposal does include water quality vegetated filter strips in two areas to treat the water to the maximum extent as shown on the plan. The BMP recommends 95' east strip and 85' west strip and we are providing double the length, which is 160' to achieve a TSS removal rate of close to 80%. The investment in stormwater quantity treatment is included in the form of various dry well systems which are included on the plans.

Regarding Special Reasons, there are three categories of circumstances in which these special reasons can be found, they are: a) the proposed use inherently benefits the public good and has inherent community value, b) where the property owner would suffer undue hardship if compelled to use the property in accordance with the permitted uses in the zone referencing the Medici case. c) where the use would serve the general welfare, because the site is particularly suitable for the proposed use, also referencing the Medici case. Per Planner Chmielak, this application for a Use (D) Variance is applicable to the third category because of the suitability of the site for the proposed residential and farming use. Planner Chmielak stated there are several reasons which support the variance, a) historical and current use as an active farm, b) two residential principal dwellings already exist on the property, c) secluded nature of the developed portion of the property, d) significant existing buffering from adjacent properties, e) proximity to other similar farm properties complementing the local character. Planner Chmielak noted the application furthers the MLUL purpose of providing a healthy blend of agricultural and residential development on this 60 acre property while still respecting the environmental constraints. At the conclusion of Engineer/Planner Chmielak testimony, Chairman Terzuolo asked if the board had questions. There were a few questions from the board. At this time Planner Bolan reviewed for the board his memo. In referencing the outside agencies, Planner Bolan asked if the applicant intended to apply to the DEP for present/absence or determination that you have a 150' buffer are correct and your delineation is correct. Engineer Chmielak stated no. Chairman Terzuolo noted that this hearing is about the tenant dwelling only, eliminate one and there is no application to consider. The only jurisdiction the board has is the second principal structure. Chairman Terzuolo asked that the testimony be limited to just the 2nd principal structure.

Attorney Ganos asked to have the Architect sworn in at this time. John P. Wolsteinholme was sworn in. Planner Bolan was also sworn in at this time. Mr. Wolsteinholme stated that the tenant house is 600 square feet and was originally a chicken coop in the 1930's or before. The new structure will be a prefab and including a front porch will be less than 2800 square feet and will be two stories. The new dwelling will be adjacent to the existing cottage. The new second house will have its own well and septic system. At the conclusion of Mr. Wolsteinholme testimony, Chairman Terzuolo asked if the board had any questions of the Architect. There was only one question. Chairman Terzuolo opened the hearing to the public for questions. Zoning Officer John Flemming asked a few questions of the Architect.

Engineer Risse concurred with the applicant's engineer regarding the request for relief from Deminimus Exception. Planner Bolan stated the applicant is requesting a D1 Variance which is a use or principal structure not permitted in the zone. You could also look at this as a D2 Variance which is an expansion of a non-conforming use which is a lesser standard in terms of what the proofs that the applicant has to provide. The Planner's testimony and report amply provides the reasons and 8 purposes that he sighted in terms of the MLUL regarding special reasons. The negative criteria was addressed very well. Planner Bolan did not have a problem with the variances being requested. Chairman Terzuolo asked Attorney Ganos if he had any questions of Planner Bolan or Engineer Risse. The response was no. Chairman Terzuolo opened the hearing to the public for questions. There were none. The hearing was then opened for statements and comments, there were none.

Attorney Ganos gave his summation at this time. Chairman Terzuolo announced that the evidence taking portion of the hearing is now closed. During the board's deliberations, Chairman Terzuolo read into the record the letter from Attorney Gallina. At the conclusion of the board's deliberations, motion by Mr. MacQueen and seconded by Mr. Kozlowski to grant the D Variance with the following conditions:

- a. Plans to be updated accordingly to be consistent with the relief being requested and testimony given.
- b. The new structures to be built per the dimensions shown on the plans per **A11.**

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- c. Sheet #2 of the Site Plan to be revised.
 - d. Approval from outside agencies having jurisdiction, including but not limited to the Hunterdon County Board of Health.
 - e. Permits to be obtained within 18 months from date of Resolution
 - f. Approval from outside agencies having jurisdiction.

Attorney Gallina will prepare the Resolution to be placed on the next agenda May 28, 2008.

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

CHAIRMAN BRUCE TERZUOLO

GAIL W. GLASHOFF, BOARD SECRETARY