

REGULAR MEETING

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

May 22, 2013

The Regular Meeting of the Lebanon Township Board of Adjustment was called to order at 7:33 p.m. by Chairman Bruce Terzuolo. Present were: Mr. Kozlowski, Mr. Perry, Mr. Abuchowski, 2nd Alternate Machauer, Attorney Gallina, Planner Bolan and Engineer Risse. **Excused:** Mr. MacQueen, Mr. Eberle, Mr. Nagie.

Notice of this meeting was published in the "Annual Meeting Notice Schedule" adopted by this board on January 23, 2013, faxed to the Hunterdon Review, Hunterdon County Democrat, Express Times, Courier News, Star Ledger and posted on the bulletin board in the Municipal Building on May 14, 2013.

The Chairman will announce the Board will go into Executive Session at this time and asked for a motion. Motion by Mr. Abuchowski and seconded by Mr. Perry to close the meeting to the public at 7:34 p.m. for the board to go into 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 Board of Adjustment meetings where certain matters are to be discussed; and

WHEREAS, the Lebanon Township Board of Adjustment is desirous to meet to discuss litigation;

NOW, THEREFORE BE IT SOLVED, by the Lebanon Township Board of Adjustment of the Township of Lebanon, Hunterdon County, New Jersey that this Board met in Executive Session.

The Chairman will announce that the board will return to the public portion of the meeting and asked for a motion. Motion by Mr. Kozlowski and seconded by Mr. Abuchowski to close the Executive Session at 7:43 p.m. and return to the public portion of the meeting. Unanimously approved.

PRESENTATION OF MINUTES: April 24, 2013 Regular Meeting & Transcript

Motion by Mr. Abuchowski and seconded by Mr. Kozlowski to approve the minutes with a minor correction. Unanimously approved by those eligible to vote.

Chairman Terzuolo asked Ms. Glashoff if those members who were not present at the last hearing have read the transcript. Ms. Glashoff said four of the five board members have read it and have signed the affidavit to that effect and three of those board members are here this evening which are Bill Machauer, Lou Perry and Bruce Terzuolo.

UNFINISHED BUSINESS:

Christian & Eileen Pinsonault
350 Clark Drive
Mount Olive, N.J. 07828

Block #56 Lot #26
Penwell Road R1½

CONTINUATION OF A PUBLIC HEARING Requesting variance relief from Section 400-8D(1), Section 330-50 & Section 400-8D(3)

Attorney Tubman was present along with Engineer Matthew Fox and applicant Christian Pinsonault. Attorney Tubman gave an overview of what transpired at the last meeting for those board members that weren't present. Attorney Tubman stated the applicant is here for a variance from the stream corridor ordinance which is in the subdivision section of the ordinance even though this is not a subdivision. The real relief that they are requiring is from the ordinance that requires a setback from the floodplain not from the stream. Attorney Tubman said when they were here last month, the board asked that they come back with better exhibits so they can see exactly what variance relief is required. Sheet 3 gives the board exactly what they want to see on the plan. The new plan needs to be marked into evidence as **A14**-Sheet 3 of 3 Variance Plan prepared by Canger Engineering Associates revised dated May 2, 2013. Chairman Terzuolo referred to the transcript quoting page 52, line 20 which states that the evidence taking portion of the hearing is now closed. Chairman Terzuolo said we need to make a decision on whether or not

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we are going to reopen the public hearing. Attorney Gallina said we will need to reopen the hearing. Attorney Tubman agreed that the hearing needed to be reopened. Motion by Mr. Kozlowski and seconded by Mr. Abuchowski to reopen the public portion of the hearing. Unanimously approved.

At this time, Attorney Tubman had Engineer Fox give additional testimony. Engineer Fox stated at the request of the board the plans have been amended to reflect the changes the board asked for. The plan now shows the 100' floodplain limit as well as the line set 10' uplands from that delineation. The existing conditions, the barn, silo and the other farm buildings are indicated in the light dash line and the proposed driveway and proposed dwelling are super imposed over the top in the dark line that are indicated on the plans. Engineer Fox said they also revised the zoning schedule to address the setback from the floodplain limit. The setback from the floodplain limit was 28.8' and they have reduced it to 16.1'. Mr. Kozlowski asked if the corner of the building is going to be in the 100 year floodplain and the 10' setback line. Engineer Fox said one of the limitations with our flood hazard area is that they are limited to 5000 square feet of vegetation removal. Engineer Fox showed on the plan where they plan to remove the vegetation in order to have a yard. They want to be able to maintain a lawn. Mr. Kozlowski asked about the dotted line inside the garage. Engineer Fox said that is the limit within the garage. Mr. Kozlowski made noted of the crawl space underneath the living space. Planner Bolan asked about the crawl space under the garage. Engineer Fox said it is a slab. Mr. Kozlowski asked about the driveway and if there was going to be wide enough for 2 cars or just a single lane. Planner Bolan said the driveway is 22' wide. Planner Bolan commented that the building and driveway hasn't changed on the new sheet. Engineer Fox said all they did was make the plans more readable. Mr. Kozlowski referred to the top of the bank and asked if the line drawn was to signify the top of the bank. Engineer Fox said yes referring to Sheet III.

Chairman Terzuolo asked Engineer Fox to clarify the 5000 square feet of disturbance. Engineer Fox said this would be done with our flood hazard permit. Chairman Terzuolo said from reading the transcript there is concern of exiting the driveway coming from the west on Penwell Road. Chairman Terzuolo said if grass is not considered vegetation, what is wildflower mix? Engineer Risse said the DEP is looking at indigenous plants. Attorney Tubman said the limit is on existing vegetation and replacing it with grass is considered removal. The discussion then centered on clearing brush along the road for safety reasons. Attorney Tubman said the DEP allows for a driveway, clearance and it doesn't count against the 5000 sq. feet. It could be applied to a site triangle clearance. Mr. Perry asked if it were the home owner who maintains this area. Attorney Tubman said the DEP in the 2007 rule adoption created what is called riparian zones adjacent to streams and then placed limits on how much disturbance that can be done and tells them the amount of disturbance that is permitted. It says nothing about maintenance.

Chairman Terzuolo asked what **A12** is. Attorney Gallina said it is correspondence from the Hunterdon County Tax Board. Planner Bolan said the assessment on the property was changed based on a denial from DEP to be a home site. Attorney Gallina said the land had been assessed at \$111,700.00 and then reduced to \$11,700.00. The total assessment went from \$118,700.00 to \$18,700.00 per Attorney Gallina. Chairman Terzuolo said the property taxes were reduced because it could not be built on. The answer was yes. Attorney Gallina said the letter was misconstrued as a denial when the Highlands granted an Exemption II.

Mr. Perry asked how high is the space going to be from the ground level to where the water is going to travel when it gets flooded in that area underneath of house. Engineer Fox said at the rear corner of the proposed building, there will be no fill on the site, it will be set at existing grade. It will be 457.8'. First floor elevation is 459.7 which is almost 2' and the louver is almost 8" high. Mr. Perry asked if that will control the water. Engineer Fox said yes. Mr. Machauer asked is the louvers were set flush on the ground. Engineer Fox said the requirements are they have to be a few inches above the ground. Planner Bolan referred to the driveway and whether you can have a turnout space. It would be nice to have a turnout instead of having to back out on to the road. Engineer Fox said they have 51' of driveway and would need 24' to back up. Engineer Fox said he doesn't have problem with it, but at this time hasn't made any provisions for it. There was a brief discussion on this issue. At the conclusion of the board's discussion, Chairman Terzuolo opened the hearing to the public for questions. There were none. Chairman Terzuolo announced that the evidence taking portion of the hearing is now closed. Attorney Tubman was asked to give her summation at this time.

At the conclusion of Attorney Tubman's summation, the board deliberated. There were concerns regarding the stream being so close to the dwelling and the backing out on to Penwell Road.

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Chairman Terzuolo read into the record the letter from Attorney Gallina regarding this application. At the conclusion of the board's deliberations, motion by Mr. Abuchowski and seconded by Mr. Kozlowski to grant the variances with the following conditions:

- a. The applicant shall obtain all other necessary approvals from any outside agencies having jurisdiction, as applicable.
- b. The applicant will pay all necessary fees and escrows payable in connection with the application.
- c. Construction of all improvements shown on the plans.
- d. All necessary permits shall be obtained within eighteen (18) months of the date of the adoption of this resolution. (The applicant is advised that pursuant to Ordinance Section 45-20, if an extension of this time period is needed, the request must be made in writing prior to the expiration of the 18 month period).

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

Attorney Gallina will prepare the Resolution to be on the Agenda of June 26, 2013.

PRESENTATION OF BILLS:

- | | |
|-----------------------|--|
| a. John Gallina, Esq. | \$ 250.00 – Attend Bd Meeting 4/24/2013 |
| b. Michael Bolan, PP | \$ 184.60 – Escrow (Pinsonault) |
| | \$ 260.00 – Attend Board Mtg 4/24/2013 |
| c. Bayer/Risse Engrs. | \$ 250.00 - Attend Meeting on April 24, 2013 |
| | \$ 125.00 - Escrow (New Cingular) |
| d. Court Stenographer | \$ 250.00 – Attend Meeting on May 22, 2013 |
| | Total: \$1,319.60 |

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

Chairman Terzuolo brought up the subject of the minutes. In reviewing the minutes the only thing the board can comment on is content. If you find any typos contact Ms. Glashoff so she can make those corrections. Planner Bolan asked to address the board regarding the Annual Report. Ms. Glashoff will put a list together and send it to Planner Bolan so he can prepare a report for an upcoming meeting.

CORRESPONDENCE:

- a. Law of the Land Articles (2)

OPEN TO THE PUBLIC None

Being no further business to come before the board nor comments from the public, motion by Mr. Abuchowski and seconded by Mr. Perry to adjourn the meeting at 8:30 p.m. Unanimously approved.

CHAIRMAN BRUCE TERZUOLO

GAIL W. GLASHOFF, BOARD SECRETARY