

## REGULAR MEETING

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

**May 23, 2012**

The Regular Meeting of the Lebanon Township Board of Adjustment was called to order at 7:30 p.m. by Vice Chairman Abe Abuchowski. Present were: Mr. Kozlowski, Mr. MacQueen, Mr. Perry, Mr. Nagie, Mr. Eberle, 1<sup>st</sup> Alternate Maurizio. Attorney Gallina, Planner Bolan and Zoning Officer Flemming. **Excused:** Mr. Terzuolo & Mr. Machauer

Notice of this meeting was published in the "Annual Meeting Notice Schedule" adopted by this board on January 25, 2012, 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 16, 2012.

**PRESENTATION OF MINUTES:** April 25, 2012 Regular Meeting

Motion by Mr. Kozlowski and seconded by Mr. Maurizio to approve the minutes with corrections. Unanimously approved.

### **INTERPRETATION:**

Mark & Susan Disko  
Section 400 4:1 Schedule I  
**(Letter from Attorney Gallina)**

Block #37 Lot #7  
Woodglen Road R 1½

Mr. & Mrs. Disko were both sworn in to give testimony. Mr. Disko said he is looking to install an Electric Power Generator which would be used intermittently approximately 1-2 days per year. The generator will be on a concrete or gravel pad. Mr. Disko reviewed for the board the survey which shows the location of the proposed generator. Mr. Disko said they were denied by the Zoning Officer for a permit in order to proceed to the Construction Department for permits. Mr. Disko said they are approximately 44.74 feet from the rear property line. The rear setback requirement is 50'. Mr. Disko said the generator is equipment and not a development. Vice Chairman Abuchowski asked for protocol for clarification on the request. Attorney Gallina stated this is not a public hearing, but an interpretation of the ordinance in question. Mr. Flemming made a few comments at this time. Attorney Gallina informed the applicant that the board does not grant relief on an interpretation, which is done with a variance application.

Mr. Disko reviewed the letter from Attorney Gallina. Attorney Gallina informed the applicant that his testimony is more in line with a variance application than that of an interpretation. At the conclusion of Mr. Disko's presentation, Mr. Flemming gave his testimony. Mr. Flemming said if this was a portable generator this would not be an issue. This generator is not a portable generator, it is considered a permanent structure and that requires a variance since it is in the rear yard setback. Vice Chairman Abuchowski asked if the board had questions of the applicant. Mr. MacQueen stated the applicant didn't have any statements or reasons for the interpretation. The generator will be in the 50' setback and the applicant didn't talk about that. Mr. Disko said he mentioned the pluses and minus's along with the hardship. Attorney Gallina interjected stating that testimony refers to a variance not an interpretation. Mr. Perry asked if this was a permanent generator on a gravel base. Mr. Disko said yes. Mr. Perry asked about the cable. Mr. Disko said they would have to bury 100' of cable and it would be more expensive if they went through the house. Attorney Gallina reminded Mr. Perry that the questions were getting into the variance aspect and away from an interpretation. Mr. Maurizio said from what he is hearing if this generator would be hardwired and permanent and not portable. The response was yes per Mr. Flemming. Mr. Flemming explained to the board the difference why this is a variance application. At the conclusion of the board's questions, Vice Chairman Abuchowski opened the hearing to the public. There were no questions from the public. Planner Bolan said the two definitions you are dealing with is development and structure, they are both from the MLUL. Planner Bolan said anything you do with an interpretation is different than an appeal or a variance. The interpretation is precedent setting and the other two are not.

At this time, Vice Chairman Abuchowski asked for a motion to close the public portion of the meeting. Motion by Mr. MacQueen and seconded by Mr. Kozlowski to close the public portion of the meeting. Unanimously approved. The board deliberated at this time. During the discussion, Attorney Gallina said that the applicant could ask for numerous waivers from the checklist. Mr. Nagie said he agreed to disagree and felt the applicant didn't need a variance because he didn't see it as a permanent structure. At the conclusion of the board's deliberation, motion by Mr. MacQueen and seconded by Mr. Perry based on the board's interpretation of the



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**Attorney Gallina will prepare the Resolution to be on the Agenda of June 27, 2012/**

**PRESENTATION OF BILLS:**

a. John Gallina, Esq.	\$ 62.50 – Attend Mtg 4/25/2012
	\$ 375.00 – Escrow ( <b>New Cingular Wireless</b> )
	\$ 156.25 – Escrow ( <b>Holly Smith</b> )
b. Michael Bolan, PP	\$ 42.60 – Attend Mtg 4/25/2012
	\$ 468.60 – <b>Attend Mtg (New Cingular Wireless)</b>
	\$ 56.80 - Escrow ( <b>Davara Industrial Center</b> )
c. Bayer/Risse Engrs.	\$ 687.50 – Escrow ( <b>New Cingular Wireless</b> )
d. Court Stenographer	\$ 200.00 - Attend Board Mtg 5/23/2012
	<b>Total: \$2,049.25</b>

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

**CORRESPONDENCE:** a. Law of the Land b. Law Bulletin May 2012

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 8:23 p.m. Unanimously approved.

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**VICE CHAIRMAN ABE ABUCHOWSKI**

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**GAIL W. GLASHOFF, BOARD SECRETARY**