

**REGULAR MEETING**

**Lebanon Township Board of Adjustment**

**May 24, 2006**

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

The Regular Meeting of the Lebanon Township Board of Adjustment was called to order at 7:37 p.m. by Chairman Bruce Terzuolo. Present were: Mr. Machauer, Mr. Kozlowski, Mr. Perry, Mr. Nagie, 1<sup>st</sup> Alternate Abuchowski, 2<sup>nd</sup> Alternate Eberle, Attorney Gallina and Planner Bolan.

Notice of this meeting was provided for in the "Annual Meeting Notice Schedule" adopted by this board on January 11, 2006, 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 May 16, 2006.

**PRESENTATION OF MINUTES:** April 12, 2006 Regular Meeting

Motion by Mr. Nagie and seconded by Mr. Perry to approve the minutes with minor corrections. Unanimously approved.

**PRESENTATION OF BILLS:**

- a. John Gallina, Esq. \$ 244.65 – Attend Mtg 4/12/06
- b. Banisch Associates \$ 109.60 – Escrow re: Cingular Wireless (2/06)
- \$ 250.00 – Attend Mtg 2/22/06
- \$1,370.00 - Escrow re: Cingular Wireless (3/06)
- c. Court Stenographer \$ 200.00 - Attend Mtg 5/24/06

**Total: \$2,174.25**

Chairman Terzuolo asked if there were any additional bills to add to the list. Ms. Glashoff stated she had two bills to add to the bill list both are from Banisch Associates. The first bill \$304.80 for meeting attendance on April 12<sup>th</sup> the second bill \$109.60 is Escrow for the Cingular Wireless application. The additional bills total **\$414.40** giving a new grand total of **\$2,588.65**. Motion by Mr. Nagie and seconded by Mr. Abuchowski to approve the bills as amended. Unanimously approved.

Chairman Terzuolo asked Ms. Glashoff to conduct the discussion over the next item on the agenda.

#### **ITEMS FOR DISCUSSION:**

- a. Any suggestions for a new board appointment to Alternate II position (expires 12/07)
- b. Recommend to Township Committee to move up Alternate I to fill unexpired board seat (expires 12/09), recommend moving up Alternate II to Alternate I (expires 12/06)

Ms. Glashoff stated that when there is an opening on the board, the board will at their discretion

make a recommendation to the Township Committee to move up the Alternate Board Member to the unexpired term. Ms. Glashoff asked if the board would like to make the recommendation of moving up the Alternate I to the unexpired term of former member Brian Cerf and if so, would like to move up the Alternate II Member to Alternate I. After a brief discussion, motion by Mr. Nagie and seconded by Mr. Perry to move Mr. Abuchowski up to the unexpired term of former board member Brian Cerf and to move Mr. Eberle up to the Alternate I position. Unanimously approved.

Ms. Glashoff asked if the board had any recommendations for the Alternate II position. There were none. Ms. Glashoff announced to the public present if they or anyone they knew would be interested in the Alternate II position on the board and if so to contact either Mayor Schriver or Municipal Clerk Karen Sandorse.

Mr. Machauer asked since we have an interesting application on the agenda this evening and considering we had an application many years ago which was similar and quite controversial and wanted to know from our Attorney, Planner and board members if we should have an expert regarding aviation. Chairman Terzuolo asked for input for the board. Mr. Eberle felt we should wait to see what testimony the board hears this evening before making a decision on hiring an expert. Mr. Abuchowski wanted to know what type of expert would be considered. Mr. Machauer stated he was thinking in terms of someone to advise



Attorney Steven Gruenberg announced that he was the attorney representing the applicant. Attorney Gallina informed the board that he has reviewed all the notices and marked the following into evidence: **A1**-Zoning Permit Denial, **A2**-Certified List of Property Owners, **A3**-Affadavit of Proof of Service & Notice to Property Owners, **A4**-POD Slips, **A5**-Notice in Newspaper (Hunterdon County Democrat), **A6**- Notice in Newspaper (Hunterdon Review). Attorney Gallina noted that the certification of Taxes Paid was not included but can be made part of any approval by the board. Attorney Gallina asked that the applicant supply proof of taxes paid as soon as possible.

Chairman Terzuolo announced that he is going to remove himself from these proceedings since he has a pre-formed opinion and can not be impartial. At this time Vice Chairman Machauer took over the meeting. Vice Chairman Machauer announced the protocol that is followed by this board for a public hearing.

Attorney Steven Gruenberg made a presentation to the board on behalf of the applicant. Attorney Gruenberg stated the property consists of 9.22 acres, a flag lot off Forge Hill Road. The applicants have an Alpaca farm. The proposal is to permit a limited use for a Helistop solely for the Pfisters personal and farm use and to make available for any emergency use by others. This proposal is not for an airport or airstrip or a helicopter pad use. Mr. Pfister is not a wealthy corporate executive who plans on flying in and out of his property in lieu of taking his limousine to work. This is solely for a small scale use of a very small helicopter which can only accommodate 2 people. This would be for personal, pleasure and farm use. The maximum use would be approximately 2-3 times per week. There will be no flying at night and no structures are required other than a windsock. There is no impervious coverage to be addressed. Besides having Paul and Carol Pfister giving testimony, they will have Planner Nancy Weaver also give testimony, whose testimony will be on the planning issues involved. Attorney Gruenberg stated that he did not think under the law that a Use Variance was required since this is a business use in terms of the Alpaca farm. A Helistop under case law is found to be customary incidental to a business use. With the limited use that the applicant is planning on doing with this Alpaca farm and the helicopter, Attorney Gruenberg stated that he hopes the board will see that this is a customary incidental use per case law and the applicant's limited use for this type of property. There are special reasons and this property is suited for this type of use.

At this time, Attorney Gruenberg had Paul Pfister sworn in to give testimony. Mr. Pfister stated he has been a resident of Lebanon Township for 25 years. They have approximately 25-28 Alpacas on their farm. Mr. Pfister noted that he is a self employed tractor trailer mechanic. Mr. Pfister had a group of photographs of the property for the board's review. The following were marked into evidence: **A7** through **A10**-Aerial photographs of the farm which shows the house and buildings and location of the Helistop on the easterly side of property with windsock dated May 24, 2006.

### **Lebanon Township Board of Adjustment**

May 24, 2006

Page 3

Mr. Pfister stated there is a small paved section of the driveway which he has a coverit building which is a fabric building that he keeps the helicopter in now. He wheels it out of the building and does a 3' hover up to the landing site. The helicopter has wheels and with pushing down on the tail which makes it easier to maneuver the helicopter which can be accomplished by one person. Mr. Pfister testified that he made the helicopter from a kit. It is a Rotor Way Exec, a 162 F Helicopter. Mr. Pfister stated that it took over a year for him to build the helicopter. There are approximately 1000 of these helicopters flying now in the country. Mr. Pfister stated that because he built this helicopter it gives him the right to maintain it. To buy a factory made helicopter is very expensive also the maintenance of a factory made is expensive. There is approximately 60 hours of flying on this machine. Mr. Pfister informed the board that he has 2500 hours of flying time with a fixed wing (airplane). He has had his license to fly since 1971. He has about 200 hours of helicopter flying with 100 hours in this type of helicopter. He has had his helicopter license for about 2½ years.

At this time Attorney Gruenberg had the following marked into evidence: **A11**-photo of applicants' helicopter. This helicopter can hold up to 210 lbs and is a two-seater. The total gross weight of the helicopter is 1500 lbs. From nose to tail the helicopter is 23' in length and including the rotor blade brings the length to 30'. The cockpit is approximately 5' in length. With any kit built aircraft there are certain restrictions one being no night flying referring to Visual Flight Rules. There is a minimum of 3 miles of visibility. Mr. Pfister informed the board that he will not be flying in bad weather such as rain nor winds of more than 15 miles per hour. On a 365 day year, approximately 20-25% would be flying time since he works 5 days per week. Would only be flying on weekends and 2 evenings per week. Would not be flying before 9:00 am. There would be no hovering on the property. Mr. Pfister informed the board that the minimum altitude is 500' off the ground for vacant land. Mr. Pfister said that he flies at 1000'. There might be times that he would come back at lunch time and leave again. He stated that he would not be flying in and out 4-6 times per day. No more than 2 take offs and two landings in one day.

Mr. Pfister informed the board that he had a representative from the Department of Transportation come to his property regarding have a helicopter landing area. Mr. Pfister stated that a Mr. Malfin, Chief of Inspections and Operations was the person who came out to his property for the inspection. In the letter Mr. Pfister received, it states that the site has been inspected and it was determined that the site could be acceptable for the purpose of helicopter landings and take offs with compliance licensing of the facility. Attorney Gruenberg had the following marked into evidence: **A12**-Letter from Department of Transportation (D.O.T.) dated February 2, 1998 re: site inspection for helicopter landings and take off area. Mr. Pfister informed the board that he had sent letters out to all his neighbors letting them know what he would like to do. His one neighbor Al Zerbrowski informed Mr. Pfister he did not have a problem with his proposal. Mr. Pfister stated in his letter he invited his neighbors over to his property or they could call with any concerns they had. Mr. Pfister stated that he heard from no one. Attorney

Gruenberg had the following marked into evidence: **A13**-Letter to the neighbors dated February 5, 2006 regarding helicopter landings and take offs.

At the conclusion of Mr. Pfister's testimony, the board had questions of the witness. Mr. Eberle asked what qualifications are needed to build a helicopter. Mr. Pfister answered none, but once the helicopter is assembled the FAA needs to come out and do a very thorough inspection and you need to receive from the FAA a certificate of air worthiness. This certificate has to be in your possession at all times in the helicopter. Every year an annual inspection is required. Mr. Pfister informed the board that he can to the inspection. It is done once a year or every 100 hours of flying. Mr. Pfister has a certificate qualifying him to do the inspections. He can repair and fix his own helicopter, just his own. The question was asked how long can you fly on a tank of fuel. Mr. Pfister stated 2 hours of flying approximately 180 miles. The tank holds 17 gallons of fuel and burns 8 gallons per hour. Mr. Eberle asked how high off the ground for structures (houses) versus vacant land. Mr. Pfister replied 1000'. Mr. Pfister stated for fixed wing aircraft it is 1000' and felt it was the same for helicopters. Mr. Machauer interjected stating the Federal Regulations are 500' from any vehicle or structure and 1000' over congested areas. Mr. Abuchowski asked about the engine. Mr. Pfister stated that he has with him all the specifications regarding the helicopter. It is 150 horse-powers, 4 cylinder water cooled engine and is 162 cubic inches. The engine weighs 187 lbs. The engine has a computer system, dual injection and dual ignition and has a quiet muffler system. Mr. Nagie asked what the full noise level would be for take off or landing. Mr. Pfister said the noise decimal is 92 but did not know if this was landing or take off.

### **Lebanon Township Board of Adjustment**

**May 24, 2006**

**Page 4**

Mr. Nagie asked about the farm use of the helicopter. Attorney Gruenberg stated that his next witness Carol Pfister would be the person to ask this question. Mr. Nagie asked about the pleasure aspect of the flying. Mr. Pfister noted the pleasure portion would be for meeting friends. Also, his wife would like him to fly her to several of her shows which would save on travel time instead of driving. Mrs. Pfister does a lot of out of state traveling to many shows that doesn't warrant her taking the Alpacas and having the helicopter would save time in traveling by car to these events. Mr. Machauer asked about the safety record of these helicopters. Mr. Pfister stated that these helicopters have a good safety record. Mr. Machauer asked about the elevation of the property. Mr. Pfister stated the elevation is 600'. Mr. Machauer asked in the general area of about 1 mile is there an appreciable change in the elevation. Mr. Pfister stated Route 31 is about a mile down from his property. Mr. Kozlowski asked what altitude he would be flying when crossing over Forge Hill Road when approaching the pad for landing using his driveway as a flight path. Mr. Pfister stated that he would be at a height of approximately 900'. Mr. Machauer questioned hours of operation.

Planner Bolan asked about the gravel driveway and if it belongs to the applicant's property. Mr. Pfister answered yes. Planner Bolan noted that the helipad is placed 55' from the neighbor to the east and 95' from the neighbor to the north. Mr. Pfister answered yes stating that it was the most suitable location. Planner Bolan asked about the 2 flight paths. Mr. Pfister stated that you fly into the wind for either landing or taking off. Planner Bolan asked if there is some angle of approach that is desirable. Mr. Pfister answered yes, that the angle is about 15 degrees. You can do a steep approach at 45 degrees. The normal approach is 15 degrees. Planner Bolan asked when you take off to the west you are on the lot lines of Lots #3.09, 3.0 & 3.05 basing it on going down the driveway. Mr. Pfister answered yes. At this time, Attorney Gruenberg had the following marked into evidence: **A14**-Survey of property dated November 15, 2005 prepared by Eldon Allen and revised January 10, 2006.

Vice Chairman Machauer opened the hearing to the public for questions of the applicant. The following people asked many questions: Attorney Stephen O'Malley who represents the adjoining property owners Michael Schmidt and Sharon Hardy, Kevin Powell, Michele Smego, Richard Cowan, Darryl Schmidt, Arthur Bannon, Andrew Smego, Jack Stanton, Tom Drake and Joe Albore. At the conclusion of the public questions, Vice Chairman Machauer announced that the board will take a brief recess. The board recessed at 9:10 pm.

When the board reconvened at 9:22pm, Attorney Gruenberg had Carol Pfister sworn in to give testimony. Ms. Pfister informed the board that she has approximately 20-25 Alpacas. She breeds, shows and sells Alpacas. Ms. Pfister informed the board that she is the member of several organizations and is the Vice President of a 7 State Alpaca Organization. Ms. Pfister stated she is in charge of educational endives which is a way to educate the public besides promoting her business. Ms. Pfister stated that she arranges and attends events. She arranges events which are held 4-6 times per years in 7 states. Attorney Gruenberg asked Ms. Pfister if they planned to have people flying in to visit them regarding the Alpaca Farm. Ms. Pfister answered no. Attorney Gruenberg asked Ms. Pfister when they had the horses before the Alpacas did the noise from the helicopter scare the animals. Ms. Pfister answered no. The animals were more upset over the Hot Air Balloons then having the helicopter hovering. Attorney Gruenberg asked Ms. Pfister if she contacted a person involved in horse uses on their property adjacent to an airport. Ms. Pfister answered yes. Ms. Pfister spoke to a Gretchen Randolph and since she was unable to attend this evening, Ms. Pfister asked that she write the letter. Attorney Gruenberg asked to read the letter from Ms. Randolph into the record. Attorney O'Malley objected again to having a letter read into the record and stated his reasons for his objection. After a brief discussion, Attorney Gruenberg read the letter into the record. The following was marked into evidence: **A15**-Letter from Gretchen Randolph dated May 24, 2006. Attorney Gruenberg then asked to have a letter from a veterinarian marked into evidence. Attorney O'Malley objected stating his reasons. After a lengthy discussion by the board, the letter from the veterinarian was not marked into evidence. It was decided that the veterinarian would need to be present to give testimony.

Ms. Pfister continued with her testimony at this time. At the conclusion of her testimony the board asked many questions of Ms. Pfister. Planner Bolan asked which airport was Ms. Randolph referring to in her letter and the size of the airport. Ms. Pfister answered Somerset Airport. Mr. Machauer noted the airport is approximately 120 acres. Planner Bolan asked how large is Ms. Randolph's property is. Ms. Pfister did not know. Ms. Randolph has horses and is a horse trainer.

**Lebanon Township Board of Adjustment**

**May 24, 2006**

**Page 5**

Vice Chairman Machauer opened the hearing to the public for questions of Ms. Pfister. Attorney O'Malley had many questions for Ms. Pfister. Since there were no other questions from the public, Vice Chairman Machauer announced that this application will be carried over to another meeting date. Attorney Gruenberg informed the board that he has another witness that he would like heard this evening. Vice Chairman Machauer stated because of the late hour it would not be possible to continue this evening. Ms. Glashoff was asked for available dates. Ms. Glashoff offered the June 28<sup>th</sup> meeting date to the applicant. Attorney Gruenberg asked if the board could have a special meeting in June. The answer was no. Ms. Glashoff informed Attorney Gruenberg if the June 28<sup>th</sup> date was not good, she could offer the July 12<sup>th</sup> meeting date. It was decided to continue at the June 28<sup>th</sup> meeting date. Attorney Gallina announced to the public that this application will be carried to the June 28<sup>th</sup> meeting date at 7:30 p.m. and no further notice needs to be given. Ms. Glashoff informed Attorney Gallina that the applicant has granted an extension through June 30<sup>th</sup>.

Being no further business to come before the board, nor comments from the public, motion by Mr. Kozlowski and seconded by Mr. Nagie to adjourn the meeting at 10:03 p.m. Unanimously approved.

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**VICE CHAIRMAN WILLIAM MACHAUER**

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**GAIL W. GLASHOFF, BOARD SECRETARY**



