

REGULAR MEETING

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

May 26, 2010

The Regular Meeting of the Lebanon Township Board of Adjustment was called to order at 7:33 p.m. by Vice Chairman Abe Abuchowski. Present were: Mr. Kozlowski, Mr. MacQueen, Mr. Perry, Mr. Eberle, 1st Alternate Machauer, 2nd Alternate Maurizio, Attorney Gallina and Planner Bolan. Also present: Zoning Officer John Flemming **Excused:** Mr. Terzuolo

This meeting was noticed in the "Annual Meeting Notice Schedule" adopted by this board on January 27, 2010, mailed to the Hunterdon Review, Hunterdon County Democrat, Courier News, Express Times, Star Ledger and posted on the bulletin board in the Municipal Building on May 19, 2010.

PRESENTATION OF MINUTES: April 28, 2010 Regular Meeting

Motion by Mr. Kozlowski and Mr. Eberle to approve the minutes with minor corrections. Unanimously approved.

RESOLUTIONS:

- a. Michael & Fran Edwards. Block #37 Lot #36.01
Conditional Use Variance with conditions Little Brook Road RC 7½

The board reviewed and made corrections to the resolution. At the conclusion, motion by Mr. Kozlowski and seconded by Mr. Eberle to approve the Edwards Resolution with corrections.

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

- b. Carolyn Temples Block #38 Lot #100.03
Bulk Variance with conditions East Hill Road R 1½

Motion by Mr. Eberle and seconded by Mr. Maurizio to approve the Temples Resolution with corrections.

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

- c. Gail M. Vajda Block #69 Lot #51
Bulk Variance with conditions Forge Hill Road R 1½

Motion by Mr. Kozlowski and seconded by Mr. Eberle to approve the Vajda Resolution with minor corrections.

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

UNFINISHED BUSINESS:

- 1. Lance Tong Block #38 Lot #62
664 Winding Brook Lane Winding Brook Lane R 1½
Califon, N.J. 07830

CONTINUATION OF A PUBLIC HEARING Bulk Variances – relief from setback
Requirements Section 400-10a
Section 400-4:1 Schedule I

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asked what the basis was for the appeal. Mrs. Gagne said that the Zoning Officer wasn't here in 1989 and was not aware of what had transpired. Planner Bolan stated the variance was based on Exhibit A8. Mrs. Gagne said that one of the conditions of that approval was that they had to build the addition within 2 years or the variance would expire. The addition was built within 2 years so the variance did not expire. Mr. Gagne said this was a hardship.

Vice Chairman Abuchowski opened the meeting to the public. Attorney Gallina had Zoning Officer John Flemming sworn in to give testimony. Mr. Flemming said this was not an easy decision. If the porch was still there and they were going to just enclose it, he would have approved the addition. Since the porch was removed or if the porch had never been there, this would not be an issue. Mr. Flemming noted there was a grey area even though he agrees with Attorney Gallina and Planner Bolan and that is why the applicant opted for the Appeal.

Vice Chairman Abuchowski asked for legal advice from counsel. Attorney Gallina stated when someone makes an appeal, the board has the legal authority to reverse, affirm or modify what the Zoning Officer ruled. The board discussed this issue at length. The board felt that the applicant will need to apply for a variance for the minor addition. The board discussed with Ms. Glashoff what would be needed to apply for the variance since so much had been submitted with the Appeal. Mr. MacQueen asked about the subdivision plan that was used for the subdivision since that had everything on it and ask that they use that. Ms. Glashoff asked the board to keep all the information they have before them for when the applicant comes back for the variance. Attorney Gallina said that Mr. & Mrs. Gagne will withdraw the Appeal application. Everyone agreed with that decision.

Vice Chairman Abuchowski announced that the board will take a brief recess at 8:34 pm. When the board reconvened at 8:42 pm, the next application was announced.

Kevin & Teri Stanton	Block #49 Lot #50.04
71 Sliker Road	Sliker Road R5
Glen Gardner, N.J. 08826	

PUBLIC HEARING	Bulk Variances Section 400-4:1
	Schedule I Relief from Setback requirements

Attorney Gallina announced that all the notices are in order and the board can proceed with the public hearing. The following items were marked into evidence: **A1-Taxes Paid, A2-Zoning Denial, A3-Notice to the Property Owners, A4-Certified List of Property Owners and Utilities, A5-Affadavit of Proof of Service, A6-POD Slips, A7-Notice in Newspaper, A8-Ltr from H.C. Health Dept., A9-Ltr from H.C. Planning Board, A10-Ltr from H.C. Soil Conservation District, A11-Ltr from Tax Assessor, A12-Property Survey prepared by Bohren & Bohren dated March, 2010.**

Mr. Stanton made a presentation to the board. Mr. Stanton said that his wife grew up on a farm and has a degree in animal science from Rutgers University. Mrs. Stanton has been a 4-H leader for 20 years and is recognized as a responsible goat breeder. Mrs. Stanton stated they have miniature dairy goats which are about 20" to the shoulder. The goats are fairly easy to care for, and are child friendly. Mr. Stanton said they have been living and raising goats in Lebanon Township for 17 years. They are both members of the NJ Farm Bureau and active in the Department of Agriculture. They moved to Sliker Road back last August from their home on East Hill Road. The zoning in their area is R5 rural agriculture. Their lot is a flag lot with a flag stem of 1000'. The lot is approximately 6.5 acres. Mr. Stanton said they are in the process of qualifying for Farmland Assessment. Attorney Gallina asked if this was to have farmland assessment for 2011. Mr. Stanton said it is a process that takes 3 years and they filed the forms last year. Their first official year will be 2012.

At this time the following was marked into evidence: **A13-Survey color coded showing pastures with the 2 run-in-sheds 12'x16' ea.** Mr. Stanton reviewed for the board everything that is shown on the survey. They have a barn in process and 3 pastures. Mr. Stanton said that they are asking for relief from the 100' setback which is for a flag lot for the two run-in-sheds. The two sheds will service the two smaller pastures. Once the barn is completed, then the smaller pastures will generally be used in the spring and fall. The locations of the sheds were chosen at the upper elevations of each pasture to maintain proper drainage and sun exposure for dry hygienic conditions.

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The openings of the run-in sheds will generally face the away from neighboring residences. Attorney Gallina asked for the distances from the residences. The distance from the north shed to the Feo residence is 270' and distance from both sheds to the Wright residence is 450'. Mr. Stanton said that the other residences are out of view. Mr. Stanton continued to review the layout of his property along with the photos. The following was marked into evidence: A14-8 photos depicting the location of the 2 run-in sheds.

Vice Chairman Abuchowski asked if the board had questions of the witness. Mr. Eberle asked about having the one shed over by the barn. Mr. Stanton said there is a stream and the land is partially wooded. Mr. Perry asked how many animals the applicant will have. Mrs. Stanton said they have at present 23 babies and 20 adult mini-goats. Mr. Machauer asked if these sheds are permanent or temporary. Mr. Stanton said the sheds are on skids and are not considered permanent. The size of the sheds are 192 square feet each. Mr. Maurizio asked once all the babies are grown how many adults will there be. Mrs. Stanton said between 20-30 adults for the majority of the year. Mr. Kozlowski asked about the milking. Mrs. Stanton said that the bulk of their operation will be conducted in the barn. Mr. Stanton said this is not a bulk operation with the milk, there won't be a milk truck coming to the property for pickup. Mr. MacQueen asked about the barn. Mr. Stanton said it had been a garage and it has been modified and enlarged. Vice Chairman Abuchowski asked where they lived in the Township before moving over on to Sliker Road. They lived 3 doors down from the Woodglen General Store, also asked the size of the mini goats. Mrs. Stanton said about 20" at the shoulder when grown and they weigh about 50 lbs as adults. Their babies weigh in at about 2 lbs each. Mr. Eberle asked if they are noisy animals? Mrs. Stanton said there are not as noisy as sheep. At the conclusion of the board questions, Vice Chairman Abuchowski opened the meeting to the public for questions.

Mr. Wright an adjoining property owner had questions. Mr. Wright asked how many animals will be kept on the property. Mrs. Stanton said 20-30 adults. Mr. Wright asked about the turkeys and wanted to know how many turkeys and if they would be breeding them. Mrs. Stanton said 2 turkeys and they were not going to breed them. Mr. Wright asked if the applicant had animals on their other property. Mrs. Stanton said yes. Mr. Wright asked what other species of animals do they plan on having. Mrs. Stanton said just the goats. Mr. Wright asked if they were going to sell any other goat related products. Mrs. Stanton said they do not plan to sell goat products from the property. They do have a few stores in the area that would like to sell their products. Mr. Wright was concerned that the applicant could sell products from the property and generate a lot of traffic. Mrs. Stanton said they are private people and don't have a lot of people visit. They are very much involved with the 4-H goat club and do have some children visit up to 3 times a year for 4-H meetings.

Mr. Orloski also an adjoining property owner had questions. Mr. Orloski referred to the survey asking instead of requesting a variance which is why we have laws in this area, why not split up one of the places on a flat area and put the sheds there. Mrs. Stanton said that they need to rotate the animals for health and cleanliness reasons. One reason for having the sheds in those locations is to have the baby goats close by. Mrs. Stanton said they want to use open areas so they don't have to take down trees. Mr. Orloski said that the applicant had taken out a lot of trees. Mrs. Stanton said they wanted to open up another pasture behind the barn. Mr. Orloski asked how much sunlight do the goats need. Mrs. Stanton said the sunlight is to keep the area dry and clean. Mr. Orloski asked if they could move the shed and put some fill in to raise the shed and then to keep drainage away put in a French drain or swirl. Mr. Stanton said to move the shed and turn it around would cause a high traffic and messy situation. Mrs. Stanton said that she holds 3 meetings per year for her 4-H children. There are 30 children in the club, but not all of them attend a meeting at the same time. Mr. Orloski said there would be around 45 cars in and out of the driveway for each meeting. Attorney Gallina asked how this is relevant to the variance application. No response from Mr. Orloski. Mr. Orloski said he has issue with the traffic, noise, sheds and smell. Mr. Orloski asked if the applicant gets a variance for sheep what happens if they want to have pigs. Attorney Gallina noted that Lebanon Township has a right to farm ordinance. People who come here know it is a farming community and will experience the sites, sounds and smells of farms. These structures are for farm animals. Vice Chairman Abuchowski said once the applicant has farm assessment this is forever. Mrs. Stanton said they will get farm assessment. They have already applied and have with them this evening a copy of their farm assessment form and a letter from the Tax Assessor which states that they qualify for farm assessment. At the conclusion of Mr. Orloski's questions, Vice Chairman Abuchowski if there were any additional questions from the public.

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At this time, the board had additional questions of the applicants. Vice Chairman Abuchowski asked the applicants how long they live on East Hill Road before moving over to Sliker Road. Mrs. Stanton said they lived on East Hill Road for 18 years. They did not have farm assessment because the property was too small to qualify. They raised goats there for the 18 years. Vice Chairman Abuchowski asked for additional questions from the board. There were none. Vice Chairman Abuchowski opened the hearing to the public for statements and comments at this time.

Mr. Donovan Wright was sworn in to give testimony. Mr. Wright said he is not a newcomer to the Township and understands that this is a farming community and has many good friends that are farmers. Mr. Wright said that the applicant's property has been in farm assessment for 25 years. The original owners had farm assessment with a forestry plan and the second owner had farm assessment with a forestry plan. Mr. Wright said in his opinion there is a difference between farming and with farmland assessment it is a hobby and a means of a tax break. Mr. Wright said we all have different hobbies. It is still somewhat of a hobby when it is done this way. A hobby should have rules and be regulated by the Township. In this situation it is a perfect example of where someone can engage in their hobby but do it in a way that conforms to all the existing codes and regulations. Mr. Wright said that this property already has 3 structures. One of them already looks like it infringes outside of the setbacks. It was probably put there illegally by a prior owner. Mr. Wright said he is the kind of neighbor that minds his own business and leaves people alone. Mr. Wright said he assumed the barn which is very large was done with permits. There is ample room for all the goats. There are also two other sheds on the property and now they are looking to have two additional sheds which will encroach on his property. Mr. Wright said what upsets him is the placement of the structures. Mr. Wright went on to say that this property is not suitable for farm assessment. It doesn't have a level area; there is not any good pasture land. Also, he does not see a need for additional structures and does not want any structures within the setbacks because he does not want anything to encroach on his property and interfere with his ability to quietly enjoy his property. At the conclusion of the public portion, Vice Chairman Abuchowski announced that the public portion of the hearing is now closed.

Vice Chairman Abuchowski asked the applicant to give their summation. At the conclusion of the applicant's summation, the board went into deliberations. Motion by Mr. MacQueen and seconded by Mr. Kozlowski to grant the bulk variances for 2 sheds that are shown on the survey with the following conditions:

- a. The applicant shall obtain approvals from outside agencies having jurisdiction.
- b. Obtain all necessary permits within 18 months of the date of the Resolution.
- c. The applicant was advised pursuant to Section 45-20 of the ordinance, if an extension of time is needed, the request must be made in writing prior to the expiration of the 18 months.

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

Attorney Gallina will prepare the Resolution to be on the next agenda of June 23, 2010.

PRESENTATION OF BILLS:

a. John Gallina, Esq.	\$ 230.00 – Attend Meeting 4/28/2010
	\$ 201.25 – Escrow (Gagne)
b. Bayer/Risse Engrs.	\$ 239.00 – Attend Mtgs 3/24/2010 & 4/8/2010
	\$1,195.00 - Escrow (Edwards)
	\$ 239.00 - Escrow (Transtar)
	\$ 179.25 - Escrow (Giordano)
c. Court Stenographer	\$ 200.00 – Attend Meeting 5/26/2010
	Total: \$2,483.50

Ms. Glashoff noted that there was an addendum to the bills totaling **\$3,571.85**. The grand total for the bills comes to **\$6,855.35**.

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Motion by Mr. MacQueen and seconded by Mr. Eberle to approve the bills as amended and corrected. Unanimously approved.

CORRESPONDENCE:

- a. Zoning Law 4/15/10
- b. Law Bulletin 5/2010
- c. Law of the Land Articles

At this time, Attorney Gallina addressed the board regarding regular and escrow bills. Attorney Gallina informed the board that Ms. Glashoff has been having a problem collecting escrow monies from one particular applicant and there are bills outstanding that haven't been paid. There are also some regular bills that have been paid either. After a discussion by the board, Ms. Glashoff was instructed to send a memo to the Finance Dept. asking that outstanding escrow bills to be paid out of the Board's regular budget money until which time the funds have been recouped. Motion by Mr. MacQueen and seconded by Mr. Eberle to have Ms. Glashoff send a memo to Finance. Unanimously approved.

Being no further business to come before the board, nor comments from the public, motion by Mr. MacQueen and seconded by Mr. Kozlowski to adjourn the meeting at 10:00 p.m. Unanimously approved.

VICE CHAIRMAN ABE ABUCHOWSKI

GAIL W. GLASHOFF, BOARD SECRETARY