

**REGULAR MEETING**

**Lebanon Township Board of Adjustment**

**August 9, 2006**

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

The Regular Meeting of the Lebanon Township Board of Adjustment was called to order at 7:36 p.m. by Chairman Bruce Terzuolo. Present were: Mr. Machauer, Mr. Kozlowski, Mr. MacQueen, Mr. Nagie, 1<sup>st</sup> Alternate Eberle, Attorney Guy Wilson and Engineer Leo Santowasso.

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 August 2, 2006.

**PRESENTATION OF MINUTES:**                      June 28, 2006      Regular Meeting

Motion by Mr. Nagie and seconded by Mr. Kozlowski to approve the minutes as presented. Unanimously approved with the following board members abstaining: Mr. Machauer, Mr. MacQueen and Mr. Terzuolo.

July 12, 2006      Regular Meeting

Motion by Mr. Nagie and seconded by Mr. Kozlowski to approve the minutes as presented. Unanimously approved with the following board member abstaining: Mr. Eberle.

**PRESENTATION OF BILLS:**

- a. John Gallina, Esq.                      \$210.00 – Escrow (**Cingular**)
- b. Banisch Associates                      \$345.90 - Attend Bd Mtg 6/28/06
- \$ 41.10 - Escrow (**Cingular**)

c. Court Stenographer                      \$200.00 – Attend Mtg 8/9/06

**Total: \$797.00**

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

**CORRESPONDENCE:**

**Mr. MacQueen announced that due to a conflict of interest he will step down from the Robert Amerman application.**

**NEW BUSINESS:**

Robert Amerman                                      Block #35 Lot #37  
8 Birchwood Court                                      Antler Road RC 7½  
Middlesex, N.J. 08846

**PUBLIC HEARING                                      Section 18-3.4b7 Build a Single Family Dwelling**  
**on a Private Road**

Attorney Guy Wilson announced that all the notices are in order and the board can proceed with the hearing. The following items were marked into evidence: **A1**-Notice in Newspaper, **A2**-Affadavit of Proof of Service, **A3**-Certified List of Property Owners, **A4**-Notice to the Property Owners, **A5**-POD Slips, **A6**-Zoning Denial, **A7**-Taxes Paid.

Attorney Jay Thatcher announced he was representing the applicant Robert Amerman made a presentation to the board. Attorney Thatcher had the following items marked into evidence: **A8**-Survey prepared by David Newton Land Surveyor dated April 14, 2006, **A9**-Letter from Fire Chief Warren

Gabriel date July 30, 2006, **A10**-Deed of Easement dated November 11, 2005 from Gary & Janet MacQueen, **A11**-Deed of Easement dated July 19, 2006 from Mr. & Mrs. Bailey.

Attorney Thatcher had the applicant Robert Amerman sworn in at this time. Mr. Amerman informed the board that he has owned the property since October 1965. Mr. Amerman stated his property is accessed from Antler Road which is a private road off of West Hill Road. Mr. Amerman stated he came to an agreement with other property owners so there would not be a dispute regarding Antler Road. Mr. Amerman informed the board that he purchased a 25' easement which extends from West Hill Road to the boundary line of the MacQueen property from Mr. & Mrs. Bailey. He also purchased an easement of 6.3' on each side from the centerline of Antler Road from Gary & Janet MacQueen which will give him 12.5' and brings him up to his

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property line which is just below the Carr property.

Attorney Thatcher reviewed for the board 8 photographs. Mr. Amerman stated that he took the photographs within the last 30 days. The first photo showed the entrance to Antler Road from West Hill Road, the second photo showed the same but from a different angle. The following was marked into evidence **A12**-two photos showing the entrance from West Hill Road onto Antler Road. The next two photos showed further down Antler with one photo reflecting a house on the left side of Antler Road. **A13**-two photo, one showing further down on Antler Road and the other photo showing a house on the left side of the road. **A14**-One photo shows the road past the house in exhibit A13 the second photo shows where the old section of the road is blocked off which is part of the MacQueen property. The next two photos show the Carr property and the Carr property line where the saw is located. **A15**-Carr property and Carr property line where the saw is located.

Attorney Thatcher informed the board that the percolation tests and soil logs all passed. Attorney Thatcher referred to the letter from Fire Chief Warren Gabriel and asked to have it marked as A16. Ms. Glashoff noted the letter was marked earlier as A9. Attorney Thatcher also noted since Lebanon

Township is in the Highlands, an application will need to be filed with the NJDEP Highlands. Attorney Thatcher stated this concludes his presentation to the board.

Chairman Terzuolo asked if the board had questions of the applicant. Mr. Eberle asked about the old drift-way that was abandoned and wanted to know if the boulders would stay where they are located blocking the old drift-way. Attorney Thatcher stated the boulders are on the MacQueen property and it is up to Mr. MacQueen on whether or not he wants to keep the boulders. Mr. Kozlowski asked if there was an easement from the Bailey property to West Hill Road. Attorney Thatcher informed Mr. Kozlowski that the Bailey's own the lane to West Hill Road. Mr. Machauer stated he noticed on the map there are 4 driveways indicated that come off of Antler Road and asked if there were homes associated with each driveway. Mr. Amerman answered yes. Mr. Machauer asked if these homes are year round homes. Mr. Amerman answered yes. Mr. Machauer asked who maintains the road. Mr. Amerman answered Mr. MacQueen maintains the road. Attorney Thatcher stated that according to the easements the owner of Lot #37 will be required on a yearly basis to chip in for the cost of the road maintenance.

At this time, Chairman Terzuolo opened the hearing to the public for questions of the witness. Mr. MacQueen asked if they were missing a deed of easement from Robert Em. Jr. Attorney Thatcher responded stating that both are recorded as one deed of easement for MacQueen and Em. Engineer Santowasso asked for classification on the map the 50' ROW from West Hill Road to the MacQueen property line does it already exist in deed form. Attorney Thatcher stated no, it exist in a deed form for 25'. What actually happened is this map was prepared before they finalized our agreement with Mr. Bailey. Mr. Bailey owns a 50' ROW which is what the surveyor prepared when he prepared the map. Attorney Thatcher stated that they have now purchased 25' in width of that ROW from Mr. Bailey. Engineer Santowasso stated he wasn't concerned about the actual travel-way; the map represents a 50' ROW from West Hill Road to the MacQueen westerly property line and is not in a deed format at the present time. Attorney Thatcher stated that it is in a deed format to the Bailey's. Engineer Santowasso stated the map is not very clear in that regard and some notations need to be added to that entire ROW as to exactly what exists now in the form of easement recorded and what is about to be recorded. Attorney Thatcher said what is about to be recorded is the Bailey portion of 25' width and the MacQueen portion of 12.5' and they are willing to put that on the survey map. Engineer Santowasso asked where the driveway was going to be that actually serves Lot #37. Attorney Thatcher stated they have not made a decision as yet because Mr. Amerman has the property under contract and the person buying the property will hopefully have to make that decision, but it will definitely be within probably the 87' which is to the top of the northwest corner of the property. Actually to the east per Attorney Thatcher.

Chairman Terzuolo asked if there were any further questions of the witness. Attorney Wilson asked about the drift-way that crosses over the MacQueen property and thru the Amerman property are there any rights to any other property owners that can use it. Attorney Thatcher answered no, not that he knows of. Attorney Wilson expressed concern that the drift-way appears to go all the way across the property and into the next property which is to the northeast.

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Attorney Thatcher stated there use to be a loop when you went up on the Carr property it swung to the east, came around and came back over the drift-way like a big circle and what has happened is that it hasn't been in use for years. From the public, Mr. MacQueen responded stating that was not correct. Attorney Wilson asked if the board had a problem with Mr. MacQueen giving testimony regarding this since he lives on Antler Road. Chairman Terzuolo stated he would like to hear Mr. MacQueen's explanation.

Mr. MacQueen stated that Antler Road comes down and touches Mr. Amerman's property just before it touches the Y where it splits off, that has been a spot where people have parked to go deer hunting, horseback riding etc. Mr. MacQueen stated many years ago, they logged that area, cleared a spot, loaded the trucks which made the area bigger, so they put rocks across it to keep the kids out. Mr. MacQueen informed the board that Antler Road is not a drift-way.

Attorney Thatcher stated his next witness is Land Surveyor David Newton. Mr. Newton was sworn in to give testimony. Mr. Newton informed the board that he prepared the survey for Mr. Amerman. Mr. Newton said that in traversing Antler Road he found it to be in very good condition. Mr. Newton referred to Exhibit A8 the survey he prepared. Chairman Terzuolo asked the board for questions of this witness. There were none. When opened to the public for questions, there were none.

Attorney Thatcher had his next witness sworn in, Planner Joseph Layton. Attorney Thatcher asked if Planner Layton had a chance to drive Antler Road. Planner Layton answered yes. Planner Layton said that the road has a stable base and that Mr. MacQueen does a very good job in maintaining the road. The road is very hard packed. Planner Layton drove the road after a very hard rain fall and found there were no gullies, it is almost like a paved surface along with adequate width and is suitable for emergency access. Planner Layton stated in reviewing the letter from Fire Chief Gabriel, he agrees with the letter. Planner Layton stated that they need relief from Section 18-3.4b7 of the Lebanon Township Ordinance and the MLUL 40:55D-35 & 36 which states "since the road does not have public access before the issuance of a permit, the road can provide adequate access for firefighting equipment etc for the protection of health and safety". The letter from the Fire Department states that the road is suitable for emergency access.

At the conclusion of Planner Layton testimony, Chairman Terzuolo asked if the board had questions. Mr. Machauer asked regarding a large piece of fire equipment, how many places are there that they can adequately turn around and get back out. Planner Layton stated probably each driveway along Antler Road, 4-5 driveways.

Chairman Terzuolo opened the hearing to the public for questions. There were none. Chairman Terzuolo stated that he was not comfortable with not having a specified driveway and asked Engineer Santowasso to impose a condition of approval that there will be an adequate turn around for a large fire truck. Chairman Terzuolo stated that with other private lanes, the board's engineers firm has specified the radius that would perfect the fire vehicles safe access and not getting stuck. The board would like to see prior to any construction permits, that a proper turnaround be installed and inspected by Heritage. Engineer Santowasso noted a site issue to the right as you access West Hill Road (Route 628) and doesn't know if the trees are within the County ROW and would like to suggest that some of the branches be trimmed to provide adequate site distance to the west. Chairman Terzuolo noted that since this is a County Road, it will need to be addressed by the County. A resident from the public asked a question regarding the road. Chairman Terzuolo responded to the question.

Chairman Terzuolo announced that the Public Hearing portion of the hearing is now closed. The board deliberated at this time. During the board's discussion, Chairman Terzuolo reviewed the letter from Attorney Wilson. At the conclusion of the board's deliberations, motion by Mr. Nagie and seconded by Mr. Kozlowski to grant the relief requested with the following conditions:

- a. Approval from all outside agencies having jurisdiction.
- b. Design from Board Engineer concerning the swing radius of the driveway  
for the property coming off of Antler to accommodate emergency vehicles
- c. Trimming of trees at entrance of Antler Road from West Hill Road
- d. Amend the survey to reflect easements between Bailey, Amerman &  
MacQueen and those easements including respective dimensions accurately  
depicted on survey map. Notation of site triangle from Antler Road  
on County Route 626 looking to the right.
- e. Easements to be recorded and proof sent to the board secretary to be on file.

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f. Road improvements to be installed and approved by board engineer before permits are issued.

g. Permits to be issued within 18 months of approval or variance becomes null and void.

**ROLL CALL**

**Yes:** Mr. Machauer      **No:** None      **Absent:** Mr. Perry

Mr.Kozlowski

Mr. MacQueen

Mr. Terzuolo

Mr. Abuchowski

Mr. Nagie

Mr. Eberle

Ms. Glashoff informed the board the items that will be on the August 23, 2006 agenda. Also, Ms. Glashoff stated that she received a phone call from Mr. Pfister informing her that he was withdrawing his application regarding the helipad. She told the board that she requested a letter to that affect. The applications that have been scheduled for August 23<sup>rd</sup> are an Appeal and an Interpretation. Ms. Glashoff also reminded the board that the Cell Tower application is scheduled to return on September 13<sup>th</sup>.

Being no further business to come before the board nor comments from the public, motion by

Mr. Nagie and seconded by Mr. Eberle to adjourn the meeting at 8:40 p.m. Unanimously approved.

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**CHAIRMAN BRUCE TERZUOLO**

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**GAIL W. GLASHOFF, BOARD SECRETARY**