

## REGULAR MEETING

**Lebanon Township Board of Adjustment**

**August 23, 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 7:33 p.m. by Vice Chairman William Machauer. Present were: Mr. Kozlowski, Mr. MacQueen, Mr. Perry, Mr. Nagie, Mr. Abuchowski, 1<sup>st</sup> Alternate Eberle, Attorney Gallina and Planner Bolan. Also present was Zoning Officer Bill Skene.

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

**PRESENTATION OF MINUTES:** August 9, 2006 Regular Meeting

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

### **PRESENTATION OF BILLS:**

a. Court Stenographer \$200.00

Ms. Glashoff announced she had three additional bills to add. Two from Banisch Associates in the amount of **\$41.10** for time spent at the meeting for Cingular and the other bill is Escrow for Cingular, time spent at the meeting in the amount of **\$427.70**. The third bill is for the H.C. Planning & Zoning Administrators Luncheon Seminar for **\$25.00**. The total for bills comes to **\$690.80**. Motion by Mr. Nagie and seconded by Mr. Perry to approve the bills as amended. Unanimously approved.



to the existing house and once it is completed, the existing house will be gutted and made a garage eliminating the kitchen and bathroom. While the addition is being built the applicant would like to be able to live in the existing house. Attorney Wilson went on to say that the Zoning Officer felt since there would be a breezeway between the existing house and the new major addition that the original house could become an apartment and that this why the zoning permit was denied.

Attorney Wilson informed the board that his client needs to be able to live in the existing house while the addition which includes a new kitchen is being built. A Temporary CO could be issued for his client to live in the new section while the original house is gutted and converted

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into a garage and a reasonable time to complete all this with a Temporary CO would be 60 days. The new portion of the house will be completely within the building envelope. Mr. Secor gave testimony which concurred with the comments made by Attorney Wilson. At the conclusion of Mr. Secor's testimony, Vice Chairman Machauer asked if the board had questions of the applicant. Mr. MacQueen asked about the septic system. Mr. Secor stated the septic design has been approved by the Hunterdon County Board of Health. Mr. MacQueen asked if the existing portion would become a garage or additional living area. Mr. Secor stated he wasn't sure but would agree to whatever the board wanted for that portion of the house. Attorney Gallina asked what is presently in the original house. Mr. Secor responded saying there are 2 bedrooms, 1 full bathroom, kitchen and living/dining room area. Attorney Gallina asked the age of the house and the height of the ceilings. Mr. Secor stated the house was built in the 1950's. The ceilings on the first floor are approximately 6'3" in height and the ceilings on the second floor are 5'6" in height. Mr. Perry asked the size of the existing house and the size of the new addition. Mr. Secor stated the existing house is approximately 800 square feet and the new addition will be 2053 square feet. Mr. Secor testified that the existing house and new addition will be joined by a breezeway so that the foundation for the new addition will not be compromised by the existing house. Mr. MacQueen asked if the plans that were submitted at the last hearing were the same plans as now. Mr. Secor answered yes. Mr. MacQueen asked if the plans were going to be redrawn to show that it is going to be garage and not living space. Mr. Secor responded saying that if the board would like the plans drawn to show a garage he would comply.

Vice Chairman Machauer asked what the original objections were and why he was denied a zoning permit. Mr. Secor responded saying that the original denial for the zoning permit because Mr. Skene thought it was potentially a two family and the Appeal was denied because it was not filed with the board in the proper time frame. Mr. Secor requested that the Board decide whether a Temporary Certificate of Occupancy (TCO) could be issued until the original kitchen was removed leaving one kitchen in the new addition.

At this time, Bill Skene, Zoning Officer was sworn in to give testimony on behalf of the board. Mr. Skene noted his main concern was to assure that the kitchen would be removed from the existing dwelling unit. Mr. Skene suggested having the applicant post a bond to secure the removal of the second kitchen. Attorney Gallina informed Mr. Skene legally we can not request the applicant to post a bond.

At the conclusion of the testimony, Vice Chairman Machauer opened the hearing to the public for questions of Mr. Secor or Mr. Skene. There were none. Vice Chairman Machauer then opened the hearing to the public for comments and statements. There were none.

Attorney Wilson gave his summation at this time. The board deliberated at length at this time. In discussing the application for an appeal, it was noted that under NJSA 40:55D-74, in an appeal application, the board may reverse, affirm or modify in whole or in part the action, order, requirement, decision or interpretation which is being appealed. During the discussion, the board was satisfied the new addition and removal of the kitchen from the existing house will constitute one dwelling unit. Also, the applicant has agreed to remove the 2 existing bedrooms and bathroom from the existing dwelling. The board was also satisfied and will recommend that a TCO be issued, in order that the applicant may reside in the addition and complete removal of the kitchen, bedrooms and bathroom from the existing house.

Chairman Machauer asked for a motion to close the public hearing. Motion by Mr. MacQueen and seconded by Mr. Nagie to close the public portion of the hearing. Unanimously approved.

Motion by Mr. Nagie and seconded by Mr. Abuchowski to modify the denial of the zoning permit as follows:

1. The zoning permit application for the two story addition constitutes a single dwelling unit, as indicated on the architectural plans submitted, and on the applicant's representations that the kitchen, bedrooms, and bathroom in the existing house will be removed.
2. The Board hereby recommends, pursuant to its authority under NJSA40:55D-70b, and Ordinance 18-4.2 that on completion of the addition, a Temporary Certificate of Occupancy (TCO) be issued for a period of 60 days, in order that the applicant may reside on the



Officer. Attorney Wilson also referred to Ordinance Section 18-3.6(c)(1) with the heading “Fences or Walls” which states: “No fence, wall or landscaping or hedges used as a fence or wall shall be so constructed or installed so as to constitute a hazard to traffic or safety”. Attorney Wilson noted that the zoning permit was denied because the location of the piers does not comply with the front yard setback requirements for the R3 zone which is 50’.

Attorney Wilson went on to say that neither term is defined in the Ordinance. The proposed piers are to be installed 25’ from the curb line along Windy Heights Road. At this time, Attorney Wilson had the applicant Diana Golden sworn in to give testimony.

Ms. Golden referred to the survey and the drawing of the monuments. The piers will be 18’ apart. The dimensions are 28” x 28” with a total length of 15’ each. The blocks are interlocking. The highest point of each pier is 5’ not including the light which will be a total of 6’ with the light. There will be landscaping placed along each pier. Attorney Wilson stated that the applicants are aware that the piers have to be located completely on their own property. At the conclusion of the applicant’s testimony, Vice Chairman Machauer asked if the board had questions.

At the conclusion of the board’s questions, the Zoning Officer Bill Skene was sworn in to give testimony on behalf of the board. Mr. Skene testified the proposed piers are “structures” as defined under the Township Zoning Ordinance and the Municipal Land Use Law and the placement of the piers must comply with the front yard setback requirement for the zone.

Attorney Wilson stated that even thou Ordinance Section 18-3.6(a)(1) prohibits the placing of accessory structures within the required yard areas, Section 18-3.6(c)(1) anticipates the placing of fences or walls within required yard setbacks, provided they do not constitute a safety or traffic hazard by protruding into a ROW or obstructing a line of sight for traffic. At the conclusion of Mr. Skene’s testimony and comments by Attorney Wilson, Vice Chairman Machauer asked if the board had questions. Mr. MacQueen noted that the Lighting Ordinance does not refer to lighting in Residential zones. Mr. Nagie asked Ms. Golden how far will these piers be from the neighbors. Ms. Golden answered between 400’ & 500’. Mr. Nagie asked Planner Bolan if there were a height limitation. Planner Bolan answered no. Planner Bolan informed the board the Planning Board has discussed an ordinance to deal with fences, walls, monuments and pillars in front yards and has not come to any conclusion. Mr. Machauer asked if there were any other lighting on the road either on properties or street lighting. Ms. Golden answered no. Ms. Golden informed the board that the lighting will help them at night and hopefully keep cars from driving on their property when going around the bend in the road. Ms. Golden stated that people have a tendency to drive on their lawn when going around the bend in the road.

At the conclusion of the board’s questions, Vice Chairman Machauer opened the hearing to the public for questions of the witness. Nancy Darois from the public asked questions.

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Being no further questions from the public, Vice Chairman Machauer asked for a motion to close the public portion of the hearing. Motion by Mr. Abuchowski and seconded by Mr. Nagie to close the public portion of the hearing. Unanimously approved.

The board deliberated at length at this time. At the conclusion of the deliberations, motion by Mr. Abuchowski and seconded by Mr. Nagie based on the Board's Interpretation of Ordinance Section 18-3.6, the proposed front entry piers may be placed within the front yard setback, provided they are in compliance with the provisions of Ordinance 18-3.6(c)(1) so not to constitute a hazard to traffic or safety.

<b>ROLL CALL</b>	<b>Yes:</b> Mr. Machauer	Mr. Nagie	<b>No:</b> None
	Mr. Kozlowski	Mr. Abuchowski	
	Mr. MacQueen	Mr. Eberle	
	Mr. Perry		

**Attorney Gallina will prepare the resolution for the next regular meeting of September 13, 2006.**

Being no further business to come before the board, nor comments from the public, motion by Mr. MacQueen and seconded by Mr. Nagie to adjourn the meeting at 9:37 p.m. Unanimously approved.

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**VICE CHAIRMAN WILLIAM MACHAUER**

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**GAIL W. GLASHOFF, BOARD SECRETARY**