

REGULAR MEETING

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

April 23, 2014

The Regular Meeting of the Lebanon Township Board of Adjustment was called to order at 7:31 p.m. by Chairman Bruce Terzuolo. Present were: Mr. Kozlowski, Mr. MacQueen, Mr. Perry, Mr. Maurizio, 1st Alternate Locker, 2nd Alternate Koch, Attorney Gallina and Planner Bolan. Also in attendance was John Flemming Zoning Officer. **Excused:** Mr. Abuchowski and Mr. Eberle.

Notice of this meeting was published in the "Annual Meeting Notice Schedule" adopted by this board on January 22, 2014, 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 April 16, 2014.

PRESENTATION OF MINUTES: March 26, 2014 Regular Minutes

Motion by Mr. Kozlowski and seconded by Mr. Maurizio to approve the minutes with a minor correction. Unanimously approved.

Ms. Koch recused herself from the next matter to come before the board.

CLARIFICATION ON RESOLUTION OF LEONARD MOORE:

Zoning Officer John Flemming **Block #23 Lot #3 Raritan River Road R 1½**
(Enclosed is a copy of Resolution) Copies of the plan/Architectural will be at the meeting.

Mr. Flemming addressed the board regarding clarification on the Moore resolution. Mr. Flemming noted on the approved plans of Mr. Moore (Architectural Plans by Polaski AIA) it shows over in a corner of the plan where the AC condenser and the oil tank was and it states on the plan to elevate over flood line or anchor to the structure as required. Mr. Moore built a platform. Unfortunately, the platform is not shown on the survey but only on the architectural plan and the platform is over the property line and since the condenser and oil tank could not be anchored to the building Mr. Moore built a platform. Mr. Flemming said the reason for this discussion is that Mr. Moore has modified the platform to make it more conforming. Since he has done this, and it is not shown on the original site plan, he now has this platform. Mr. Flemming said he is not asking to modify the variance just asking for clarification of the variance that was approved. Attorney Gallina said there are certain setbacks that were shown on the site plan and he referred to Condition #2 in the Resolution. If the rebuilt home doesn't comply with those setbacks with the variance approval then Mr. Moore will need to come back to the board and ask that this condition be amended. Mr. Flemming said the setbacks will be complied with on this revised plan but this was not on the original survey that was approved by this board. The Resolution didn't specify that Mr. Moore could rebuild the house and build a platform, but couldn't get any closer to the property line than X. Mr. Flemming said he didn't see that on the survey. Mr. Flemming stated since Mr. Moore had to raise the electrical panel box, it was obvious that he would have to put them on something.

Mr. Maurizio asked if there had been a generator before and the answer was no. Then why is there one now if it was not part of the original application. Mr. Flemming said that Mr. Moore decided to do natural gas then have an oil tank. Mr. Maurizio asked where the generator was going to be moved too. Mr. Flemming said to a more conforming location. Chairman Terzuolo said there isn't a place on the property that would be conforming. Attorney Gallina said it looks like things have been added and said that was his opinion. Attorney Gallina stated that Mr. Moore will need to come back to the board with an application to either revise site plan or ask to have a condition amended in the Resolution. Chairman Terzuolo noted that this survey was revised per the revision block after the board had approved the original survey. The platform was added and the survey was again revised as of April 14, 2014. Chairman Terzuolo agreed with Attorney Gallina stating that the applicant will need to come back to the board with a new application since none of this was on the original survey that was approved by the board, Chairman Terzuolo noted the survey was prepared by Engr. Terri Essig. Mr. Flemming stated that the plan dated 4/14/14 is a proposed change versus the revision dated 3/30/14 is what is presently on site. Attorney Gallina said Moore's only alternative is to come before the board asking for a variance or to ask for an amendment to the Resolution. At this point, Mr. Flemming thanked the board and left the meeting.

Ms. Koch returned to the board at this time.

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ITEMS FOR DISCUSSION:

- a. 2013 Annual Report – Planner Bolan**
- b. 2013 List of Approved/Denied Applications**

Planner Bolan handed out his report to the board. Ms. Glashoff informed Planner Bolan that the board has a copy of the approved/denied applications for 2013. Planner Bolan said there is a portion of the MHUL that states annually the Board of Adjustment must prepare a report that is adopted by Resolution and submitted to the Planning Board and Township Committee. Planner Bolan reviewed for the board the report. Planner Bolan stated in 2013 the Board held 10 meetings and acted on 9 applications with 1 additional application being withdrawn. Five applications for bulk variances, four approved and one variance application was withdrawn by the applicant. No use variance applications were filed for 2013. There were three applications for Extension of Time and one application to Toll the Time Period to satisfy conditions were approved. There was one application for an appeal from a decision of the Zoning Officer which was approved. There were four variance applications that were also approved.

The board discussion the following items:

- a. Private Roads.** The board recommended that a subcommittee consisting of Township Committee Members, Planning Board, Zoning Board, Fire Official and possibly other Township agencies are formed in order to thoroughly review the issues surrounding private roads.
- b. Use Variances.** The board routinely imposes conditions of approval when granting variances for development. In granting use variances, the conditions of approval often respond to the MLUL requirement that applicants prove that the negative criteria are satisfied. The negative criteria state that no variance can be granted unless the variance can be granted without substantial detriment to the public good and will not impair the intent and purpose of the zone plan and zoning ordinances. The board relies on the enforcement of certain conditions as an important part of granting variance relief from the ordinance. The board recommends diligent enforcement of these conditions by the Zoning Officer and code enforcement department. In conclusion, the board further recommends that the Township develop a better system for the sharing of information and the tracking of application approvals.
- c. Accessory Apartments.** Planner Bolan said we have always had language in the accessory apartment ordinance that said an accessory apartment could be in a structure that existed before July 1, 1987. Planner Bolan said he believed the date was put in the ordinance last year. This recommendation has been implemented.
- d. Definition of “Animal Farm”.** This includes “indigenous and/or exotic animals”. The way the ordinance is written has caused some difficulty for the Zoning Officer. The board had recommended that the word “indigenous” be deleted from the definition to alleviate the difficulty. Animal farms have to be at least 7 acres. Because of the definition of indigenous and/or, this has been brought up regarding horses on small lots. This doesn't apply to the most recent. The Planning Board had discussed this recommendation last year and noted that there are properties (game farms included) that might be made nonconforming if this definition is changed.

Planner Bolan said this covers everything unless the board has something else to add. Chairman Terzuolo referred to accessory apartments and asked if it could be tightened up. Chairman Terzuolo referred to acreage and age. Planner Bolan said the one thing that has always come up is when is an apartment an apartment. Mr. Maurizio said isn't a kitchen the main criteria. Ms. Koch said that it was a big problem in Bernardsville because of the big estates. She explained to the board what had transpired. Ms. Koch referred to the discussion on animals and asked if you could include non-domesticated animals. Ms. Koch noted rescue places with raccoons and deer are considered indigenous and are non-domesticated. Ms. Koch stated that horses are domesticated animals. At the conclusion of the discussion, Chairman Terzuolo brought up the subject of how many feet off the property line for housing livestock, when it is a farm you have to be 100' off the property line. Chairman Terzuolo brought up the application that had been before the board many years ago, when the applicant wanted to build a barn for horses and he only had 204' in width and the building had to be 100' off the property lines which only gave him a 4' wide building 1000' long which was good if you were raising snakes. The board discussed this issue at length. At the conclusion of the board's discussion, motion by Mr. MacQueen and seconded by Mr. Locker to approve the Annual Report and send it on to the Planning Board and Township Committee. Unanimously approved.

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PRESENTATION OF BILLS:

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| a. John Gallina, Esq. | \$250.00 – Attend ZBA Meeting March 26, 2014 |
| b. H.C. Planning/Zoning | \$ 30.00 - Attend Luncheon/Seminar 4/16/2014 – G. Glashoff |
| c. Court Stenographer | \$250.00 - Attend Meeting 4/23/2014 |
| Total: \$530.00 | |

Ms. Glashoff said since the Court Reporter wasn't here this evening the **\$250.00** needs to come off the list of bills. This would bring the new total to **\$280.00**. Motion by Mr. MacQueen and seconded by Mr. Perry to approve the bills as amended. Unanimously approved.

CORRESPONDENCE:

- a. Law of the Land Articles
- b. Law Bulletin – April 2014
- c. Zoning Practice – March 2014

OPEN TO THE PUBLIC No public was present.

Being no further business to come before the board, nor comments from the public, motion by Mr. MacQueen and seconded by Mr. Maurizio to adjourn the meeting at 8:16 p.m. Unanimously approved.

CHAIRMAN BRUCE TERZUOLO

GAIL W. GLASHOFF, BOARD SECRETARY