

**MINUTES
NORTH LEBANON TOWNSHIP
BOARD OF SUPERVISORS
MAY 15, 2006**

The regularly scheduled meeting of the North Lebanon Township Board of Supervisors was held at 7:00 PM at the Municipal Building located at 725 Kimmerlings Road, Lebanon, PA with the following people present:

Dawn M. Hawkins	Chairperson
Edward A. Brensinger	V-Chairperson
Kenneth C. Artz	Treasurer
Cheri F. Grumbine	Township Manager
Harold Easter	Chief of Police
Sol Fred Wolf	Henry & Beaver LLP

Also in attendance was: Al Winn of the Patriot News, Brad Rhen of the Lebanon Daily News, and many other individuals.

Chairperson Hawkins announced that at 7:30 PM the regular meeting will cease and a Public Hearing for a requested Zoning Amendment will begin.

COMMENTS FROM THE PUBLIC

A.)Tim O’Neill – Request to Vacate Portion of Haig Street

Mr. O’Neill explained his daughter and son-in-law have just purchased a property on Light Street. Haig Street borders the property and a portion of the street the Twp never opened or maintained, according to O’Neill. He told the Board that the City of Lebanon borders the other side of Haig Street. He is requesting the Twp abandon their rights to a portion of Haig Street where it borders the property on Light Street.

Sol Wolf introduced himself to O’Neill. He suggested that the request be presented in written form to the Twp. Doing a quick review of the map that O’Neill has provided, Sol Wolf stated the City of Lebanon does own the other side of the area that O’Neill is talking about and it would be the Stoevers Park area. Sol Wolf told O’Neill he should provide a copy of his written request to the City Engineer’s office so that the office could provide any comments they might have on this issue. This type of action requires that both property owners be informed before any action is taken on this request. Sol Wolf explained to O’Neill the procedure for this type of request. He told O’Neill there would be financial responsibilities that he would have to assume. He asked for a phone number where he could contact O’Neill once he has all the information together. Mr. O’Neill stated he would drop off a written request at the Twp office on Wednesday.

B.)Charles Allwein – Parking on Ashton Drive

Mr. Allwein said he wanted to make the Board aware of a parking problem situation on Ashton Drive when there are ball games. The corner is posted with NO PARKING signs however people continue to park there anyway. It is creating a visibility problem for the motoring traffic. Suv Brensinger mentioned there are 2 parking areas at that field area, one is the main parking area off Jay Street and the other is the smaller one off Ashton Drive. Allwein told the Board of an incident where a child ran out between parked cars. He voiced his request that the Police aggressively review this area. Chf Easter indicated he would let the officers know of this request.

APPROVAL OF MINUTES

MOTION was made and seconded to approve the minutes from the 4-17-06 and 5-01-06 meetings. Unanimously carried.

APPROVAL PAYROLL, PAYMENT OF INVOICES, FUND BALANCES

MOTION was made and seconded to approve payroll, invoices for payment subject to audit. Unanimously carried.

CHIEF OF POLICE REPORT – Harold Easter

A.) Calls For Service Report – April 2006

Chf Easter reported on the calls for service from the month of April 2006. Chf Easter stated the highest day for incidents during the month of April was Wednesday.

B.) Public Announcement to Speeders

Chf Easter reported to the Supervisors that he has requested the newspapers to print the fact that speeders will be actively pursued throughout the Twp. This is a warning to all motorists who travel through the Twp. Within the last month at least 60 citations have been issued for speeding alone.

C.) Update on Officers in the Dept

Officers Gross and Pflueger have both completed their training programs successfully. Officer Koons is involved in planning National Night out which is scheduled for August 1. He has also started planning the D.A.R.E. classes that will start in September. Chf Easter reported he had attended a Spring Festival hosted at the Ebenezer Elem School this past weekend. He had the opportunity to interact with the young people who were in attendance. He estimated about a thousand, total, in attendance. He was also guest speaker at a Police Memorial service held at the City/County Municipal building today.

TOWNSHIP MANAGERS REPORT – Cheri F. Grumbine

A.) Briar Lake Phase III Final Subdivision Plan

Mgr Grumbine told the Board that Briar Lake Phase III is being provided for action this evening. Scott Burkholder of Landmark Builders was in attendance to answer any questions they might have. This phase is the one that will contain townhouse units as well as single-family dwellings. The Board had approved the Preliminary Plans for Briar Lake previously. This is now Phase III and is the final phase for Briar Lake. NLT Planning Commission reviewed the plan at their May 8 meeting and is recommending approval. Lebanon County Planning has provided a letter recommending approval of the plan also. All Park & Recreation fees have been paid. The Park & Rec agreement is also being provided to the Board tonight for action. Some discussion took place about this particular phase of Briar Lake.

MOTION was made and seconded to approve the Briar Lake Phase III Final subdivision plan and to approve the Park & Rec agreement for this plan. Unanimously carried.

B.) Landmark Letter

Mgr Grumbine told the Supervisors she had received a letter from Landmark Builders in reference to the Narrows Glen subdivision. They are requesting a waiver from the roll curbing and would like to use slant curbing. Some discussion was held about the curbing preferences. Suv Brensinger told his fellow Board members the residents have a preference for slant curbing, as it is more “user friendly”.

MOTION was made and seconded to approve the request from Landmark builders to use slant curbing for Narrows Glen development. Unanimously carried.

SOLICITORS REPORT – Sol Fred Wolf

A.) Update on George Hardick

Sol Wolf told the Supervisors that George Hardick had been hospitalized for several weeks. Hardick had contacted Sol Wolf last week to schedule an appointment to meet with Nelson Ebersole to come to his property and complete an assessment of his belongings that could be sold. Sol Wolf stated he would hopefully have more details for the Supervisors next month.

B.) N 11th Avenue/ 15th Avenue RR Crossings

A meeting was held at the 11th Ave site with all the respective parties and the PUC. A hearing will be scheduled. The Twp, the City of Lebanon and any other interested parties will be able to discuss the pros and cons of keeping 11th Ave open versus closing it. Within the last week property owners and businesses have voiced their opposition to the closing of the railroad crossing.

C.) Lebanon City Authority Take Over

The litigation the Twp is involved in with the City takeover of the City Authority has received a stay of all proceedings order from the PUC until a vote from all outside municipalities could be taken and 75% would have to approve of the takeover. Sol Wolf said he is hearing the City and the City Municipal Authority are involved in negotiations.

D.) Possible Ordinance Updates

Sol Wolf told the Supervisors that Chf Easter and Officer Wengert are in the process of providing him with information on Ordinance revisions or updates. They are just about at the point where he will be providing the information to the Board for their review of it.

E.) Property Transfer Tax Issue

Sol Wolf explained the Dept of Revenue is now responsible for collection of any real estate transfer taxes when a deed is presented to the Recorder of Deeds office during a transfer of property and determined that the transfer taxes were underpaid. He mentioned the time and effort the Twp had to expend after the transfer of Spruce Park in order to get the funds due to the Twp.

F.) Cell Tower Appeal

An appeal was filed after the ZHB decision regarding the erecting of a cell tower had been received. Both the Twp and the cell tower company completed intervention in the appeal process. Sol Wolf has received a draft of an agreement of settlement between the cell tower company, the Zoning Hearing Board, the Twp and the Stewarts. The Stewart's attorney and the cell tower company have indicated their approval of this agreement. Sol Wolf will be providing the information to the Board for their review. Once everyone has approved of the language in the agreement all issues will be eliminated.

****** Public Hearing on Ordinance No. 2-2006 ******

Solicitor Wolf announced that it is now 7:30 PM and he would like to start the Public Hearing for the advertised Zoning Amendment request for properties located on Rte 72 and W Maple Street owned by A. Bruce and Kathryn Sattazahn. If approved Ordinance No. 2-2006 would be adopted to complete the changes to the NLT zoning map. An explanation of the procedure to be followed was given to the public.

Sol Wolf reviewed all the pertinent facts with this request. He explained the location and the addresses of the 4 separate properties that the Sattazahn's are requesting be rezoned. They are requesting a classification of General Commercial (C 2A) from the current high density Residential (R2). He told the public this Public Hearing had been advertised on 2 different evenings in the Daily News. On March 31st letters to surrounding property owners had been mailed and the properties owned by the Sattazahns had been posted with signage. A copy of the Ordinance had been posted in the general office for review by the public prior to this hearing. The initial request had been filed through Lebanon County Planning Dept. County Planning has completed their review of this request and have provided their comments in a letter dated March 30, 2006. It is the opinion of that office this request be denied for various reasons. Sol Wolf read of the reasons Earl Meyer, Director of County Planning Dept, listed in the letter.

The NLT Planning Commission offered their review and recommendation of approval for the Sattazahn request. The Commission members were unanimous with the exception of one member excusing himself from a vote. That member would be Bruce Sattazahn who abstained from a vote. Sol Wolf said Mr. Sattazahn or his Attorney Loren Schrum would be presenting their request to the public.

Zoning Amendment Request Hearing (con't)

Upon completion of this portion, the floor would be opened to the public to comment or ask questions. Anyone wishing to comment should raise their hand state his or her address and name and then offer the comment.

Attorney Schrum started his presentation by displaying an aerial map, with the 4 properties owned by the Sattazahns high lighted. He explained the difficulties Mr. Sattazahn has encountered when trying to lease the space formerly known as the Pansy Hill Market located along Rte 72. Also high lighted on the map are all the properties along this corridor that are being utilized for business purposes. Some uses are the former T&C building, misc auto dealerships and Shipley Oil just to mention a few. The one property that is owned by the Sattazahns is a residential home, which Bruce's mother resides in and is located on W Maple Street. This property is one of the concerns that Mr. Meyer offered in his review comments. One point Attorney Schrum wanted to stress is that properties are not listed for sale and there is not a buyer out there just waiting for this decision.

In the course of trying to find tenants for the property on the north side of Rte 72, Mr. Sattazahn receives many questions about what type of use is permitted for this location. Mr. Sattazahn has to tell them he is not sure and the County Planning Dept must be questioned to get an answer. The answer is dependant upon the individual's determination. As there are no clear-cut acceptable or unacceptable uses for this non-conforming property. The property is located in an R2 zone but is a non-conforming use as it was used for commercial purposes before zoning was enacted.

Bruce Sattazahn

Bruce Sattazahn asked to respond to the comments about the single parcel located on W Maple Street that his mother resides in. He has spoken to the neighbor located on the corner of W Maple St and 22nd Street. Mr. Zellers indicated he might be interested in the possibility of having the corner rezoned to commercial also. He said he was unsure how strongly he felt about that possibility. Sattazahn said he had also met with Mr. Castro, the property owner to the east of his property. Mr. Castro told Bruce he did not have any opposition to the Sattazahns request. He indicated his interest for his property as he operates a small concrete business.

Sol Wolf repeated the fact that the properties have been used for commercial uses because of the non-conforming status. There could be limitations on these uses. At this time he asked the public to voice his or her comments, starting in the front and progressing to the rear of the room.

Joanne Steiner – Hill Street

Mrs. Steiner stated she was interested in knowing what types of businesses would be permitted operate in a commercial zone. She made reference to a "phantom letter" that she had received at her home asking if she really wanted a "bar" in her neighborhood. Her answer to that is she definitely does not want a "bar" as her neighbor. She said she has no opposition to the businesses operating there currently. Her concern is if and when the property gets sold to someone else. The new owner would be deciding what is objectionable for the neighborhood in this situation. Attorney Schrum read through the list of 16 acceptable uses for the C 2A zone. He explained that by having this classification the Twp would have some control over what is considered acceptable. With a non-conforming use there is little or no control over what is operating from this location. After hearing the acceptable uses Mrs. Steiner questioned if a huge Sheetz gas station could be placed there. Attorney Schrum replied if all the required regulations and square footage could be met, yes it could be. Mrs. Steiner voiced her concern about the traffic problems with that intersection already and the new traffic light system, which did not help the situation very much.

Sol Wolf explained that although a gas station would be an acceptable use, all the regulations in the Ordinance would limit the size that would be applicable to this particular lot size. He continued on to say that no matter what business would go in there would still be a lot of traffic problems to deal with.

Zoning Amendment Request Hearing (con't)

With an R2 classification apartments or townhouses would create quite a problem. Traffic issues would have to be a part of the plan approval process according to Sol Wolf.

Sandy Pantell – Hill Street

Ms. Pantell said her concern is what would be done about the existing traffic problem and the light that is already in existence. She is of the opinion that there are a lot of traffic problems even with the new traffic light.

Sol Wolf stated that everyone is aware there are problems at this intersection. Even if Mr. Sattazahn continues with the existing non-conforming uses or apartments and townhouses would be constructed this intersection will continue to be a problem. There does not seem to be a good or workable solution for this intersection.

Bill McMichael – Kimmerlings Road

Mr. McMichael was confused about the zoning issues being discussed. He asked how the properties got to be 2 different classifications. Suv Brensinger explained that the properties are all zoned R2, however they are all being used for business purposes. The area is what is called non-conforming use. The businesses were in existence prior to zoning being adopted. He has often wondered why the R2 classification was stamped for that particular area.

Attorney Schrum

Attorney Schrum explained that is a part of the problem. There are no specific designated purposes for the area, as would be if it were classified for commercial uses. The way things are now the Twp would have a difficult time saying no to whatever is proposed, as there are no guidelines for this property. Sol Wolf agreed the existing businesses were there before zoning was established in the Twp. It has been questioned by everyone why this particular area would have been zoned as residential. Should apartments or townhouses be constructed there we would really have problems.

Carol Stewart – N 7th Street

Mrs. Stewart questioned if these businesses are permitted to operate now under the current R2 classification, why try to change the zoning? Sol Wolf replied that Attorney Schrum has been trying to explain some of the problems Bruce has encountered when trying to lease the spaces to certain businesses. It is always the determination of LCPD whether or not the business would be acceptable. By having the zoning changed to commercial there are very definite guidelines to be followed according to zoning regulations and the determination would not be left to the County office.

Mike Kauffman

Mr. Kauffman is the new owner of the former Leibey's warehouse building. He will be utilizing the warehouse to store fertilizer materials. He is confused as to why the area has not been zoned commercial. A lot of the area is used for commercial uses now.

Ed Wolfe – Hill Street

Mr. Wolfe said he lives on Hill Street and he would like the zoning to remain as it is.

Judy Wolfe – Hill Street

Mrs. Wolfe voiced her concern about property values if this zoning change is enacted. Will it decrease the property value for the surrounding properties? Attorney Schrum said it is his opinion the value of the properties could increase instead of decrease. In a commercial zone a property could be used for residential or commercial use. The former homes located on S 10th Street where the new Eckerd Drug store is now located. There were homes located there that were bought at a premium price. Suv Brensinger said he thinks there is some confusion about what is being requested for a zoning change. The request is for Mr. Sattazahn's properties only, not the surrounding homes.

Zoning Amendment Request Hearing (con't)

When the Wal Mart issue was brought up, Suv Brensinger stated he feels there is no way Wal Mart would be interested in this small parcel of land.

Tom Stewart – N 7th Street

Mr. Stewart asked why instead of “spot zoning” all the properties are not involved in this zoning change. Sol Wolf responded that the owners are the ones who must make a request for a zoning change. Mr. Sattazahn, when deciding to request this change had spoken to many of the surrounding neighbors who use their property for business to gauge whether or not they might be interested in changing their zoning. The only other commercial use in the area is the church.

Jere Putt – Jay Street

Mr. Putt said he is confused about County Planning making decisions with Sattazahn’s tenants and the business proposed for this property. Why would County Planning say no to this request and the Twp Commission say yes to it? That does not make any sense to him. Sol Wolf said he understands Earl Meyer’s decision was not based on what is acceptable as a non-conforming use but rather he based it on the traffic concerns and the County Comprehensive Plan. He is not looking at this issue as to what control County has in regards to it being used as a non-conforming use. He is viewing this request for a change from R2 to Commercial and how it fits the County Comprehensive Plan. From NL Twp viewpoint it does not seem reasonable to have these properties zoned as high density residential. Mr. Putt said he really has no opinion one way or the other but was confused by the 2 different opinions from Lebanon County and the NLT Planning Commission. Sol Wolf responded that just goes to show the 2 groups are independent of each other and have different thinking on this particular request.

Joanne Steiner – Hill Street

Mrs. Steiner said she has no concerns about the way the property is being used currently. However what happens when or after the property gets sold to someone else is a big concern to her. There is no guarantee of what the next owner will try to place on the properties. New owners probably will not care about the surrounding neighbors and whether or not the business will fit into the existing neighborhood.

Bill McMichael – Kimmerlings Road

Mr. McMichael questioned how this affects the assessed taxes? Sol Wolf replied the taxes are assessed on the use the property is being used for. Attorney Schrum said the taxes are not based on the zoning classification. The tax would only be changed if a countywide reassessment was completed and that does not happen very often. Building permits that are applied for often will trigger a tax assessment. A change of zoning will not affect the current tax rate.

Edgar Castro – W Maple Street

Mr. Castro stated he owns the property to the east of the Sattazahn property. He would like to offer his opinion that the commercial zoning would be a good idea for all the properties located on W Maple Street.

Attorney Schrum discussed at some length some of the scenarios that this problem with “non-conforming use” versus the proper commercial zoning classification could raise. At this point Sol Wolf turned the discussion back to the Supervisors.

Suv Hawkins

Suv Hawkins had a question as to the “control” that is available to the Twp. For example if someone were to propose a bar for this site, would it be an acceptable use under the R2 classification or only under the commercial classification? Attorney Schrum replied that the question of control would be answered in the zoning classification, which with a non-conforming use you simply do not have. The zoning ordinances set up the standards or regulations. With an R2 zone (and a non-conforming use) there is no regulations to prevent a bar from happening.

Zoning Amendment Request Hearing (con't)

Suv Brensinger stated that the Church's location would prevent the bar from happening. Attorney Schrum agreed that the issue would be a liquor license issue and is totally different from the zoning discussion that is being conducted right now. The issues with liquor licenses supercede any zoning regulations.

Suv Hawkins questioned if, in order to rezone, does the property have to be contiguous with another property zoned the same thing. Attorney Schrum stated not to his knowledge. Suv Hawkins referred to the letter from Earl Meyer and his mention of the Sattazahn property not adjoining any other C 2A area. She was a little confused by that comment. Sol Wolf and Attorney Schrum were in agreement that Earl Meyer was viewing this request as a trained informed planner and was using the overall vision for the County. He was not looking at it as a benefit, or not, to North Lebanon Twp. Chp Hawkins said she is heavily considering the fact that a commercial zone would provide the opportunity for the Twp to deny certain requests for use. The Board members discussed some issues amongst themselves and then decided they were ready to take action.

Suv Artz

Suv Artz questioned Attorney Schrum about the single property located on W Maple Street and is owned by Sattazahn. Is there a possibility that this one parcel could be removed from his request? Bruce Sattazahn said he would prefer for that not to happen. His request was for all the properties owned by himself and his wife. However if this one parcel would prevent him from having the other properties rezoned, he would be open to discussing it. Suv Artz said he has reservations about that parcel being zoned commercial. That would leave the corner property in limbo. Suv Artz said he does understand wanting to have the Rte 72 properties zoned to the appropriate use for the properties.

Suv Brensinger

Suv Brensinger said he wants to point out that the property, which currently houses the cigar shop, beauty shop and the coffee shop, is not large enough to house a Sheetz or a Turkey Hill. With the current zoning they could come in and tear everything down and rebuild to make "it" fit and the Board could probably not stop them from doing so. If someone were to come in and demolish the existing layout and the desire to create a new footprint, the Board would have some control over the ingress and egress issues for Hill Street. PADOT would address Rte 72 issues. As far as the property located on W Maple Street, the parcel itself could not be used for commercial use but could be used to help relieve traffic going onto Rte 72 or 22nd Street. To approve this particular parcel would be for the future purpose of traffic relief. It is his hope the other business owners along the Rte 72 corridor in this particular area will come to the Board with the idea of changing his or her zoning. He repeated his opinion that the bar idea can be ruled out. Someone would have huge hurdles to overcome for that to happen.

MOTION was made and seconded to adopt the request for a zoning change for all the properties owned by A. Bruce and Kathryn Sattazahn and the adoption of Ordinance No.2-2006. Suv Artz and Suv Brensinger voted in favor of the amendment and Subv Hawkins voted to deny. Majority carries the motion and the Ordinance is adopted.

COMMENTS FROM BOARD MEMBERS**A.)Suv Ken Artz**

Suv Artz commented on the fact that tomorrow is Election Day. He urged the public to come out and try the new voting machines for the first time.

As there was no more business to conduct or discuss the meeting adjourned.

Respectfully Submitted,

Theresa L. George
Recording Secretary