

**Borough of Peapack & Gladstone  
Land Use Board**

**JANUARY 6, 2016**

**Reorganization meeting.**

Attorney Roger Thomas assumed the chair for this portion of the meeting.

**Opening Statement:** Adequate notice of this meeting of the Land Use Board of the Borough of Peapack & Gladstone was given to the Courier News on January 6, 2015 and was posted at the Municipal Complex, 1 School Street, Peapack; The Peapack Post Office, 155 Main Street, Peapack; and the Gladstone Post Office, 266 Main Street, Gladstone, New Jersey on January 6, 2015.

**Salute to the Flag**

**Swear in members**

Peter Sorge and Lisa were sworn into the office as members of the Land Use Board by attorney Roger Thomas.

**Roll Call:**

**Present:**

Greg Yannaccone, Chairman  
Mayor William Muller  
Susan Rubright  
Stephen Neville, Vice-Chairman  
Mark Corigliano, Councilman  
Joan Dill, Class IV  
Kingsley Hill  
David DiSabato  
Judy Silacci, Alternate # 1  
Peter Sorge, Alternate # 2  
James Heck, Alternate #3  
Lisa Saunders, Alternate # 4

**Absent:**

Chris Downing

**Also Present:**

Roger Thomas, Esq. Board attorney  
John Szabo, Borough Planner  
William Ryden, Borough Engineer

**Election of Chairman for 2016:**

Greg Yannaccone was nominated for the position of Chairman of the board for 2016; the motion was seconded and approved by the following roll call vote:

**AYES:** William Muller, Susan Rubright, Stephen Neville, Mark Corigliano, Joan Dill, Peter Sorge, Kingsley Hill, James Heck, David DiSabato, Lisa Saunders, Judy Silacci,  
**NAYS:** None

Upon the election of Mr. Yannaccone, Mr. Thomas then turned the meeting over to Chairman Yannaccone.

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**Election of Vice-Chairman for 2016**

Steve Neville was nominated for the position of Vice Chairman for 2016; the motion was seconded and approved by the following roll call vote:

**AYES:** Greg Yannaccone, William Muller, Susan Rubright, Mark Corigliano, Joan Dill, Peter Sorge, Kingsley Hill, James Heck, David DiSabato, Lisa Saunders, Judy Silacci

**NAYS:** None

**Nominations for Assistant to Secretary**

Greg Yannaccone nominated Susan Rubright as assistant to the Secretary; the motion was seconded by Steve Neville and approved by the following roll call vote:

**AYES:** Greg Yannaccone, William Muller, Steve Neville, Mark Corigliano, Joan Dill, Peter Sorge, Kingsley Hill, James Heck, David DiSabato, Lisa Saunders, Judy Silacci

**NAYS:** None

**APPOINTMENT OF PROFESSIONALS:**

Susan Rubright moved to adopt the resolution appointing the Attorney, Planner, and Engineer for the year 2016; Steve Neville seconded the motion which was passed by the following roll call vote:

**AYES:** Greg Yannaccone, William Muller, Steve Neville, Susan Rubright, Mark Corigliano, Joan Dill, Peter Sorge, Kingsley Hill, James Heck, David DiSabato, Lisa Saunders, Judy Silacci

**NAYS:** None

**OFFICIAL NEWSPAPER:**

Bill Muller moved to adopt the resolution designating the Official newspaper which is the Courier News; location for posting of notices and the fee to be paid by any person requesting individual notice of meetings; Joan Dill seconded the motion which was passed by the following roll call vote:

**AYES:** Greg Yannaccone, William Muller, Steve Neville, Susan Rubright, Mark Corigliano, Joan Dill, Peter Sorge, Kingsley Hill, James Heck, David DiSabato, Lisa Saunders, Judy Silacci

**NAYS:** None

**MEETING DATES:**

The chairman suggested that the meetings start at 7 p.m. There was no objection to this by the board as long as the meetings will adjourn at 10 p.m. Joan Dill moved to approve the meeting dates for 2016 with the change in the meeting time to 7 p.m.; Kingsley Hill seconded the motion which was passed by the following roll call vote:

**AYES:** Greg Yannaccone, William Muller, Steve Neville, Susan Rubright, Mark Corigliano, Joan Dill, Peter Sorge, Kingsley Hill, James Heck, David DiSabato, Lisa Saunders, Judy Silacci

**NAYS:** None

**APPOINTMENT OF THE CLERK OF THE BOARD FOR 2016.**

Greg Yannaccone moved to appoint Ruth Spea as the Clerk/Secretary of the Board for 2016; Joan Dill seconded the motion which was passed by the following roll call vote:

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**AYES:** Greg Yannaccone, William Muller, Steve Neville, Susan Rubright, Mark Corigliano, Joan Dill, Peter Sorge, Kingsley Hill, James Heck, David DiSabato, Lisa Saunders, Judy Silacci

**NAYS:** None

**ASSISTANT SECRETARY TO THE CLERK FOR 2016**

Greg Yannaccone moved to appoint Sarah Jane Noll as the assistant secretary to Clerk Ruth Spea; Steve Neville seconded the motion which was passed by the following roll call vote:

**AYES:** Greg Yannaccone, William Muller, Steve Neville, Susan Rubright, Mark Corigliano, Joan Dill, Peter Sorge, Kingsley Hill, James Heck, David DiSabato, Lisa Saunders, Judy Silacci

**NAYS:** None

The reorganization portion of the meeting was adjourned and the regular meeting started.

**Minutes - December 2, 2015**- The minutes of the December 2, 2015 were approved as corrected.

**Resolution to be adopted:**

**David and Elodie Gibson** – A Resolution Memorializing the approval of December 2, 2015 by the Land Use Board for Block 8, Lot 2.05 applied for by David and Elodie Gibson was circulated amongst the board prior to the meeting and considered for adoption.

Kingsley Hill moved to adopt the following resolution of Memorialization which was seconded by Susan Rubright and passed by the following roll call vote:

**AYES:** Greg Yannaccone, Susan Rubright, Kingsley Hill, David DiSabato, Lisa Saunders

**ABSTAIN:** Mark Corigliano and Joan Dill

**NAYS:** None

**BOROUGH OF PEAPACK AND GLADSTONE LAND USE BOARD  
RESOLUTION OF MEMORIALIZATION**

**Approved: December 2, 2015  
Memorialized: January 6, 2016**

**IN THE MATTER OF  
DAVID AND ELODIE GIBSON  
VARIANCE APPLICATION  
LOT 2.05, BLOCK 8  
Application No. AP-2015-008**

**WHEREAS**, David and Elodie Gibson, (hereinafter known as the “Applicant”) filed an application for variance approval with the Borough of Peapack and Gladstone Land Use Board (hereinafter known as the “Land Use Board”) on September 8, 2015, and

**WHEREAS**, the application was deemed complete on September 23, 2015, and

**WHEREAS**, a public hearing was held on December 2, 2015, with notice, at which time the Land Use Board rendered its decision on the application in accordance with the requirements of N.J.S.A. 40:55D-10(g), and

**WHEREAS**, it has been determined that the Applicant has complied with all of the rules, regulations and requirements of the Land Use Board and that all of the required provisions of compliance have been filed with the Land Use Board, and

**WHEREAS**, the Land Use Board has received as part of the hearing process the following testimony and documentary evidence submitted by the Applicant and its consultants, the Land Use Board staff, and members of the public:

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The Applicants are the owners of property known as Lot 2.05, Block 8 on the Tax Map of the Borough of Peapack and Gladstone. The property is located in the RR-1 Zone and consists of 12.4 acres of property. The current property is occupied by a single-family, two-story stone dwelling. The Applicant proposes to construct a pool house with a residence together with a greenhouse and a proposed barn which will have an office located on the second floor. Mr. Moschello of Gladstone Design testified on behalf of the Applicant. He is a Professional Engineer in the State of New Jersey. He indicated that the property in question is in his opinion a transitional property. It is located in the RR-1 Zone. However, it is a large piece of property for that zone. The property abuts the RR-5 immediately to the northeast and above that property is the RE Zone. He testified that the frontage of the property is technically on School Street. Therefore, the rear of the existing house faces the municipal building. He testified that the property slopes from north to south in a downward direction. In regard to the proposal, he indicates that the existing drive that more or less parallels Willow Avenue will be eliminated except for a small portion that will be used for a parking area. The Applicant proposes to extend the existing drive in a northeasterly direction around the existing house to the proposed barn. The pool house will be 1,300 sq. ft. with a bedroom and a bath. There will be a greenhouse and a barn. The barn will be approximately 4,000 sq. ft. with a garage on the bottom and a fitness and office on the second floor. The height of the pool house and the greenhouse are 14 ft. which is within the accessory height limits. The barn will be 18.3 ft. requiring a variance, in addition to the height variance for the barn. Mr. Moschello indicated that there is a variance for the accessory dwelling in the pool house. There is also a variance for the pool house in the front yard and the accessory structure in the side yard. Finally a variance is requested for the office in the barn. He noted that the dwelling/bedroom in the pool house would not be for rental purposes. It would only be for caretakers and guests. The Applicant agreed to a deed restriction.

Mr. David Zimmerman, a Professional Planner in the State of New Jersey testified on behalf of the Applicant. He indicated that one variance is a "d(1)" variance. This involves the accessory dwelling. He notes that in the RR-5 and in the RE Zones which more or less abuts the property, this use is allowed. He opines that the property in question is more similar to the RR-5 Zone and RE Zone since it is 12.4 acres. Therefore, it is in the character of those zones rather than in the RR-1. Further, he testified that in his opinion the structure will not be visible from abutting properties.

With regard to the "c" variances involving setbacks, etc., he notes that the location of the pool house is in the best location since it is a level area whereas the rest of the property slopes. He further indicates that the intention of the ordinance is not to have structures in the front yard on one (1) acre lots. However, the pool house is 250 ft. from School Street and will not be visible. With regard to the height of the accessory structure and the home office which are "c(2)" variances in his opinion, he notes that it is integrated into the barn and will not be seen. It will not have employees and will not have customer or client visitations. With regard to the height variance, he notes that the building will not likely be visible from other properties. He also noted that there is a "c(1)" variance for two (2) retaining walls due to the slope of the site.

He indicated that with regard to all of the variances he does not see any substantial detriment to the intent and purpose of the Zone Plan or the Zoning Ordinance. Nor does he find that there is any detriment to the public good. He notes that in his opinion these structures will not be seen.

He also reviewed the 1996 Master Plan and found that on Page II-6 there is a reference to large lots having accessory guest houses. He also believes the site is particularly well suited since it is over 12 acres which is well in excess of the RR-1 standard and in fact in excess of the RR-5 standard.

The meeting was opened to the public and an abutting property owner indicated that her and her husband can see the site. It was therefore suggested that there be landscaping for the greenhouse and the pool house to obstruct the views from residences along Willow Ave.

In addition to the testimonial evidence the following documentary evidence was provided:

- A-1 Neighborhood Aerial dated December 2, 2015;
- A-2 Site Aerial Exhibit dated December 2, 2015;
- A-3 Rendered Variance Plan dated December 2, 2015;
- A-4 Deed restriction against further subdivision.

The Board reviewed the reports of its Consultants, Mr. Ryden and Mr. Szabo. They incorporated the reports of those consultants. The first was Mr. Ryden's report dated September 23, 2015. The second was Mr. Szabo's report of October 25, 2015. Mr. Szabo indicated that he did feel that the variances could be granted within the parameters of the variance standards.

**WHEREAS**, the Land Use Board, in reviewing the foregoing testimony and documentary evidence, makes the following findings of fact and conclusions:

The Applicant is seeking both a variance pursuant to N.J.S.A. 40:55D-70(c)1, (c)2 and (d)1. With regard to the "d(1)" variance, the Applicant must establish in particular cases and for special reasons that there is sufficient basis for the grant of the variance. With regard to the "c(1)" criteria, the Applicant must establish among other bases that the property has topographic or other physical restrictions that limit the ability to comply with the ordinance requirements. The "c(2)" variance requires the Applicant to show that a purpose of zoning will be advanced and that the benefits of the grant of the variance will outweigh the detriment. In all cases the Applicant must establish that there is no substantial detriment to the public good and will not substantially impair the intent and purpose of the Zone Plan or the Zoning Ordinance.

With regard to the "d(1)" variance, the Board does find that the property is similar in character to the RR-5 or the RE Zone given that it is over twelve (12) acres. The Board further takes notes of the fact that there is a deed restriction of the property as evidenced by A-4 against further subdivision. Therefore, the Board finds that the character of the property is in the nature of the RR-5 and RE Zones which authorizes the use of accessory dwellings for caretakers and guests. It is therefore consistent with the Zone Plan.

With regard to the "c" variances, the Board does find that the size of the property does mitigate against any of the negative criteria. Further, the Board finds that the location of the pool house is in the most level part of the property and is therefore appropriately located given the fact that it is 250 ft. from School Street which mitigates against any negative impact. With regard to the office in the barn, the "c(2)" criteria applies in that the home office is a *de minimis* activity as outlined by the Applicant and will not engender traffic, will not have visitation by customers nor will there be employees. It will be for personal use only and is integrated into the garage. The height of the garage is mitigated by the fact that it is on a large piece of property and has limited visibility.

With regard to the negative criteria, the Board finds that as indicated by both Mr. Zimmerman and Mr. Szabo there is no substantial impact to the intent and purpose of the Zone Plan or the Zoning Ordinance. With regard to the issue of impact regarding the general public, the Applicant has agreed to provide additional landscaping to mitigate against concerns raised by the public.

**NOW, THEREFORE, BE IT RESOLVED** that the Land Use Board of the Borough of Peapack and Gladstone does hereby approve the "c" variances and the "d" variance requested by the Applicant as more particularly described in a map entitled

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“Gibson Property, Variance Plans” prepared by Gladstone Design consisting of six (6) sheets and dated June 10, 2015. This approval is subject to the following terms and conditions:

1. The Applicant incorporates the architectural plans prepared by Carney, Logan, Burke Architects of Jackson, Wyoming which plans are dated June 26, 2015.
2. The dwelling facilities in the pool house shall be limited to caretaker and/or guest occupancy and a deed restriction shall be imposed to enforce that purpose. No rental of this space shall be authorized.
3. The office on site shall be for personal use with no authorization for employees or visitors.
4. Any future subdivision of the property shall include a modification of the “d” variance since the Applicant has relied upon the size of the property for the grant of the “d” variance.
5. No professional or commercial use shall be authorized for the barn or any other structures approved in this application.
6. The Applicant shall submit to the Borough Engineer a Landscape Buffer Plan to mitigate the views of the proposed greenhouse and pool house from residents on Willow Avenue. These plans shall be reviewed and approved by the Borough Engineer.
7. The Applicant shall revise the site plan and the architectural plans to correct any inconsistencies.
8. This approval is subject to the payment of all appropriate fees and taxes.

### **PUBLIC PORTION**

**Theresa White - 12 Tiger Hill Drive** – Preliminary Presentation of New Regulations regarding Bee Keeping. (In preparation for The Department of Agriculture’s visit to the Borough on 1/20/15). Ms. White introduced herself and thanked the board for hearing her. She informed the board of the 3 new acts of legislation regarding bee keeping. She had submitted the new legislation to the board prior to this meeting and explained each act and her time during this process. She will be at the January 20th meeting when the Department of Agriculture is present. She was asked to inform any interested persons that the meeting will begin at 7 p.m. The board discussed their procedures for the discussion.

### **Matheny Status**

Steve Neville reported on the meeting back in December. There seems to be some common ground identified and there has been some communication between the neighbors and Matheny. The sub-committee will encourage any meeting that the parties will have. The neighbors wish to meet with Matheny directly. The litigation is progressing. The appellate division will be hearing oral argument next month on February 2nd. They are encouraging the neighbors and Matheny to sit down and talk and provide the sub-committee with any feedback. They are encouraging the two parties to meet between now and January 25th. Mr. Thomas encourages the two parties to get together. The board members had some questions of both Mr. Neville and Thomas. Don Lemma is still on the sub-committee. The sub-committee is a Master Plan Committee and a LUB member can be a member. Mr. Neville feels that the life of the sub-committee is short. Any comments should be put in writing or some kind of communication.

The Chairman pointed everyone to the New Jersey Planner that they all had copies of. Mr. Thomas encourages everyone to take the mandatory course. He also reminded everyone that while listening to testimony they should not be on their blackberry or ipad looking up information. Ask the expert who is testifying. There is an article about this. There was considerable discussion about this. He also advised that the LUB must submit an annual report. John Szabo, Borough Planner is preparing the annual report with any recommendations to the Borough Council. Within the next couple of meetings, the report will be submitted.

Don Lemma of 108 Mendham Road addressed the LUB as a previous member of the board and now serving as councilman. He came to the meeting to say goodbye to the

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board and stated that it has been a pleasure working with them. He recently attended a meeting at the League of Municipalities and asked to be able to pass on some important information that he gleaned from the meeting. Mr. Lemma reviewed recent case law which is directly applicable to the board members and he thought would be helpful:

- Do not send Personal emails during a public meeting because they are discoverable.
- The attorney when sending email should bcc to other members so that a return message would only go back to the attorney.
- Any elected or appointed officials should not send personal emails from business emails and do not reply from your personal account.
- Must declare the reason why a member abstains from any vote on the LUB. Mr. Thomas objected to this. He is aware of a case that says you do not. Mr. Thomas suggested using the telephone because they are not discoverable.
- Send emails to Land Use Board email; not personal emails.

The chairman asked that emails only be sent to their LUB account. Do not send personal emails during a meeting. Is the email sent during a public hearing discoverable? Maybe not for the content of the email but rather that you are not paying attention during a public hearing.

Dr. Spratt spoke briefly to the board about the discussions about Matheny. The process that was gone thru is moving forward. He will try and get a meeting together but he feels that everyone should get together. A dialog with the neighborhood should continue. He was encouraged to continue the discussions with the neighbors.

Public Portion was closed.

**Adjourn**

A motion to adjourn was made and seconded and the meeting was closed at 10 p.m.

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Sarah Jane Noll  
Assistant to Ruth Spae