

REGULAR MEETING

**Lebanon Township Planning Board
530 West Hill Road Glen Gardner, N.J.**

October 18, 2022

The 950th Regular Meeting of the Lebanon Township Planning Board was called to order at 7:10 p.m. by Vice Chair Doreen Bleck. Present were: Mayor Mike Schmidt, Ms. Koehler, Mr. Piasecki, Mr. Weiler, Darryl Schmidt, Mr. Skidmore, Mr. Abuchowski, Attorney Gallina, Planner Kyle, Engineer Bayer and Ms. Jacobus. **Excused:** Mr. Rich, Mr. Duckworth.

In compliance with the "Open Public Meetings Act" notice is hereby given that the Lebanon Township Planning Board will hold their Regular Meeting at the Woodglen School in the Gym on October 18, 2022 at 7:00 p.m. Members of the Township Committee may also be present for the meeting. The notice for this meeting was published in the October 5, 2022 issue of the Hunterdon Review. Copies of the Agenda was emailed to the Hunterdon Review & Courier News, faxed to the Hunterdon County Democrat, Express Times, Star Ledger and posted on the Lebanon Township Website and Bulletin Board in the Municipal Building on October 12, 2022.

PRESENTATION OF MINUTES: September 20, 2022 Regular Meeting

Motion by Mr. Skidmore and seconded by Mr. Piasecki to approve the minutes as presented. Unanimously approved by those eligible to vote.

July 19, 2022 Regular Meeting

Motion by Ms. Koehler and seconded by Mr. Weiler to approve the minutes as presented. Unanimously approved by those eligible to vote.

September 20, 2022 Closed Executive Session

Vice Chair Ms. Bleck stated that the board does not have to vote on the Executive Minutes. Ms. Glashoff informed the board that they do vote on the Executive Minutes because when the minutes are no longer confidential they can be release and also redacted if necessary. Motion by Mr. Abuchowski and seconded by Mr. Skidmore to approve the minutes as presented. Unanimously approved by those eligible to vote. These minutes were approved after the discussion on the NAR Group Resolution.

ANNOUNCEMENT: Letters of Resignation – Gary MacQueen & Marc Laul, Class I Mayor Designee.

Ms. Glashoff read into the record the letter received by Gary MacQueen. Ms. Glashoff announced that the Township Committee has received a letter of Resignation from Marc Laul.

RESOLUTION:

- a. NAR group Block #57 Lot #23
Warren, N.J. 62 Anthony Road RC

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Attorney Gallina went over the changes to the Resolution and stated there were some changes that were made. Attorney Cucchiara had submitted a letter with comments and some were incorporated into the Resolution. Attorney Gallina reviewed for the board paragraphs 4,5,6, said in Paragraph 8, this raises significant issues and questions on whether or not it is a farm use as defined by Ordinance.

Attorney Gallina stated these issues and questions are within the jurisdiction of the Board of Adjustment and should be submitted to that Board. The board continued their discussion on the changes in the Resolution at length and since they won't be voting on the Resolution this evening and didn't want to wait until the December meeting, Planner Kyle informed the board that they have 45 days from the September 20th meeting to adopt the Resolution. The board decided to table the Resolution. Attorney Gallina said he will send another copy of this version. Attorney Gallina informed the public that the Board does not entertain public comments on a Resolution. A Resolution is adopted by the board's decision in writing and there is a 45-day deadline in the MLUL for adopting a resolution.

The board discussed having a meeting in November. At the conclusion of the board's discussion, it was decided to have a regular board meeting on Tuesday November 1st 7:00 p.m. at the Municipal Building Ms. Glashoff will place a notice in the Hunterdon Review for the meeting on November 1, 2022 at 7:00 p.m. Motion by Ms. Koehler and seconded by Mr. Skidmore to have their meeting on Tuesday November 1, 2022 at 7:00 p.m. Unanimously approved.

ITEM FOR DISCUSSION:

Discussion on the move up of Alternates I & II to a Regular Member and Alternate II to Alternate I

Vice Chair Ms. Bleck stated this item would not be discussed this evening.

Review of Ordinance for Public Hearing/Adoption TC on November 2, 2022

Ordinance 2022-10 Prohibiting the Operation of All Classes of Medicinal Cannabis Businesses and amending Section of Lebanon Township Chapter 400 "Zoning" 400-9,A-C

Vice Chair Ms. Bleck said the next item on the Agenda is Ordinance 2022-10 from the Township Committee for the board's review prohibiting the operation of all classes of medicinal cannabis businesses along with amending the Zoning Ordinance to that affect. Per Planner Kyle, the requirements of the Municipal Law Use Law (MLUL N.J.S.A. 40:55D-26), after introduction of Ordinance 2022-10 by the Township Committee, the Planning Board within 35 days after referral, the board can make a report including the identification of any provisions in the proposed development regulation, revision or amendments which are inconsistent with the Master Plan. The board can make recommendations concerning the inconsistencies and any other matters as the board deems

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appropriate. Planner Kyle stated the board's function over the MLUL is to decide if there are any provisions in the ordinance that are inconsistent with the Master Plan.

Vice Chair Bleck asked if the board have any questions concerning the ordinance. **Mr. Schmidt** asked Engineer Bayer under the Highlands Act does it prohibit this kind of medical marijuana facilities within the preservation areas. Engineer Bayer said with any dealings he has had with the Highlands, there hasn't been anything, directives that have come down from the Highlands specifically about cannabis facilities. Engineer Bayer stated significant quantities of water required for these facilities with significant amount of waste water is generated. The Highlands Council hasn't issued any directives and this Township is completely within the Highlands Preservation area and significant amount of ground water would be drawn and doesn't see anything incorrect with the ordinance that is proposed. Mr. Schmidt asked if the Highlands has issued any kind of guidance, edict or additions to the Highlands Act since this is not a permitted endeavor within a preservation area. Engineer Bayer said no that he has not seen anything come down from the Highlands Council regarding it. Regarding the Highlands Exemption that was issued, per Engineer Bayer, the exemption was for lot impervious coverage only. The Highlands exemption doesn't consider anything to do with water use or waste water that is generated. Mr. Schmidt asked if operations can produce significant quantities of waste water exceeding amounts during the adoption of the Highlands Act. Also, is the applicant required by law to do something with the waste water or just put it back into the ground or pump it into the Spruce Run Creek. Engineer Bayer said they do have a management plan for their waste water and there are two types of waste water for a cannabis facility, domestic sewage and industrial waste water. If it exceeds 2000 gallons per day and is going to be discharged into some type of on-site water treatment facility, it requires an industrial NJPDES use permit and if it's less than 8000 gallons per day, there is an exemption under NJPDES regulations, it requires a treatment works approval in Chapter 22 N.J.S.A. 7:14 A-22 for putting it in to a holding tank. A holding tank can't exceed 10,000 gallons in capacity and has to be less than 8,000 gallons per day. Engineer Bayer said this is what the NAR application has proposed. Engineer Bayer said a holding tank has to be managed, hauled by a licensed hauler to a receiving facility (waste water treatment plant).

Mr. Schmidt said in one paragraph that the Township Committee feels that this sort of establishment does not fit with our rural community. **Mr. Piasecki** stated if there are questions regarding the Highlands Act, then they raise challenge issues to the ordinance, if so then Mr. Piasecki agrees it should be revisited to make sure that we adopt an ordinance that's enforceable. Mr. Piasecki said we are 96% preservation, maybe more. **Mr. Weiler** said he agrees with Mr. Piasecki and Mr. Schmidt. **Ms. Koehler** stated that some of the items the Township Committee put in the ordinance they better protect the Township; not just say we don't want it in our municipality. Mr. Piasecki said he likes the ordinance but wants it to be enforceable but if there are areas in the ordinance that can be challenged then we need to take a second look at it. Mr. Piasecki said some of the things that have been pointed out are areas

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that can be challenged. **Mayor Schmidt** said it's the Highlands and federally illegal drug and the state legal drug. It puts us in the position of violating one law or the other. Also, there has been discussion on this issue with the Planner and Township Committee and we have to go through with detailed regulations with what water level is acceptable and in which zone, traffic on certain roads, if you have to haul out 10,000 gallons of water, how often and what road can accept that. Mayor Schmidt said we need to do a careful review of our ordinances and regulations for not just medical cannabis but recreational cannabis and all hydroponic agriculture that could have a similar water and waste water production. Mayor Schmidt said they have spoken to the Highlands Council about potentially using grant funds to support the engineering and research work that's going into it which also needs to go through the Planner to make application and get the funding so we do it right. **Mr. Weiler** asked how does this effect the NAR application. Attorney Gallina said there use to be an old rule called a "Time of Decision Rule". This was a law that was passed, even though your application was pending, you were subject to the change in the law. The statute was changed about 4 years ago. You are subject to the law that was in effect at the time you applied. The board was okay with the recommendations that were suggested.

Ms. Koehler asked Attorney Gallina that the changes being suggested were significant, if so would it would change the public hearing date. Attorney Gallina said the board will need to decide how they want to send this back to the Township Committee and it could change the public hearing date and if it is amended further, it may come back to the board. Mr. Schmidt wanted to know if the Township Committee likes the ordinance as is, they can adopt it without any changes. Attorney Gallina said yes. Planner Kyle said based on the suggestions by the board, then a motion should be made to have Ms. Glashoff provide a report to the Township Committee that says that there are no provisions in the ordinance that are inconsistent with the Master Plan along with the comments that the Board has on the content of the ordinance. Vice Chair Ms. Bleck asked for a motion to the changes just made. Motion by Piasecki and seconded by Mr. Weiler to have Ms. Glashoff send a memo to the Township Committee with the board's suggestions.

ROLL CALL	Yes:	Mr. Piasecki	Mayor Schmidt	No:	Mr. Schmidt
		Ms. Bleck	Mr. Weiler		Ms. Koehler
		Mr. Skidmore	Mr. Abuchowski	Absent:	Mr. Rich
					Mr. Duckworth

Ms. Glashoff asked Ms. Bleck if she will be attending the November 1st meeting. Ms. Bleck said no. Ms. Glashoff said you will need to pick a Chairman for the November 1st meeting. Motion by Mr. Schmidt and seconded by Mr. Weiler to have Mr. Piasecki chair the November 1st Planning Board Meeting. Unanimously approved.

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PRESENTATION OF BILLS & REPORT:

a. John Gallina, Esq.	\$1,987.50
b. Bayer/Risse Engrs	\$6,110.00
Total:	\$8,097.50

Motion made by Mr. Schmidt and seconded by Mr. Abuchowski to approve the bills as presented. Unanimously approved.

Vice Chair Ms. Bleck asked for a motion to open to the public. Motion by Ms. Koehler and seconded by Mr. Skidmore to open the meeting to the public. Unanimously approved. The following people from The Public had questions: **Mr. Schneider** asked about the new driveway that has been installed. Planner Kyle informed Mr. Schneider that his question should be addressed to the Zoning Officer. Mr. Adickes commented on proper parliamentary procedures also, asked about the general comments on the proposed ordinance. Planner Kyle addressed Mr. Adickes questions. **Ms. Dilorenzo** reviewed for the board the application filed with the state on NAR Group. She informed the board that the application for NAR Group was filed August 22, 2019 to the State Department of Health, Division of Medical Marijuana for an alternative treatment center permit. Ms. Dilorenzo mentioned two of the Documents she received. One was from Lebanon Township Tax Assessor answering the request of Farmland assessment approval. Attorney St. Angelo stated that the proposed operation may be subject to site plan or variance approval by the Township Planning Board or Zoning Board. Ms. Dilorenzo said neither document gives an approval at any level to NAR Group. Ms. Dilorenzo stated the ATC asked for verification of approval by the Township's governing body. The Manglani's were asked to attach verification of approval on August 22, 2019. Ms. Dilorenzo asked how the Manglani's claim on their application they had municipal approval when they didn't have approval. Attorney Gallina informed Ms. Dilorenzo there is no approval from the Planning Board and the Committee should be compelled to find out why the CRC accepted the NAR Group application when they did not have written verification of approval by this municipality. Ms. Dilorenzo noted that Mr. Manglani's property is not a farm because he and his machines and equipment control artificial lights, controls how much water the plants take, controls humidity, controls temperatures, nutrients, microbes, mold and VOCs all this 24/7. Under Security and Surveillance, the Manglani's state every person coming or going from the premises will pass through a manned security booth. They will also have a 10'4" concrete block perimeter walls and a round the clock monitoring.

Mr. Bone questioned the recommendations being sent to the Township Committee regarding the proposed Ordinance 2022-10. Planner Kyle said the Township Committee can accept those recommendations or not. **Mr. Shogran** stated this is not an operation that will stay as one. It will get bigger and one building will not be enough, they grow to include more buildings as the business grows. Mr. Shogran said the biggest addiction they will have is money.

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Mr. McKee said what a debt of gratitude he has for Gary MacQueen and the effort he put for through the Planning Board and the Zoning Board for many years. Mr. McKee said he just wish that Janet and Gary all the best going forward. **Mr. Galloway** made comments. Mr. Galloway said he has heard so many things the NAR Group has not gotten permission to do. **Mr. Mickel** stated he is 1500' from the proposed facility and asked if the board voted that the NAR Group is not an agricultural operation. Mr. Mickel said by State regulations the Department of Agriculture does not cover recreational or medicinal marijuana. They cover hemp and cannabis oil. Under the cannabis regulations, it specifically says medical marijuana and recreation marijuana cannot be covered by the Right to Farm, can't be farm assessed and can't be placed on a preserved farm that was preserved with federal funds. The NAR Group has a seven-acre wood lot management plan and it is deminimis plan to say they are farm assessed. Mr. Mickel said if you let them in your just should open the doors because there's going to be five or six more once you set the precedent for that facility. **Ms. Broadhurst** stated we know they are already breaking our local laws and paying fines. When they are making millions, as a town what kind of recourse do we have to make them obey our laws and ordinances? Attorney Gallina informed Ms. Broadhurst the Zoning Officer and Building Department are the enforcement for the Township and if they violate the ordinance they are the individuals who take care of it. The board does not have enforcement authority and does not have the power to impose penalties. **Ms. Lisa** stated that medical marijuana can be abused. It has also been pointed out regarding how much water would be used and that the applicant has not been honest with the Township.

At this time Vice Chair Ms. Bleck asked for a motion to close the public portion. Motion by Ms. Koehler and seconded by Mr. Skidmore to close the public portion of the meeting. Unanimously approved. Mr. Skidmore referred to a comment made by a resident about the lack of permits and the continuation of the driveway being enlarged which makes it look like a continuation of Woodglen Road. Attorney Gallina stated that an individual should call the Road Supervisor and/or Zoning Officer. Mr. Piasecki stated if the Zoning Officer doesn't do anything, then it goes to the Township Committee and they can get the Zoning Officer to do what is necessary. Mr. Skidmore said that the Planning Board has been informed about the driveway and that it is a hazardous situation. Attorney Gallina stated a referral to the proper individual or officer that has the authority to take action.

Being no further business to come before the board, nor comments from the public, Vice Chair Ms. Bleck asked for a motion to adjourn the meeting. Motion by Ms. Koehler and seconded by Mr. Schmidt to adjourn the meeting at 8:40 p.m. Unanimously approved.

VICE CHAIR DOREEN BLECK


GAIL W. GLASHOFF, PLANNING BOARD CLERK