

## REGULAR MEETING

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

November 30, 2022

The Special Meeting of the Lebanon Township Board of Adjustment was called to order at 7:00 p.m. by Chairman Wayne Eberle. Present were: Ms. Guevara, Ms. Zatika, Mr. Sachs, Mr. Porcino, Mr. Fortenbacher, Ms. Devine, Attorney Gallina, Planner McManus and Engineer Bayer. **Excused:** Mr. Terzuolo.

In compliance with the "Open Public Meetings Act" notice is hereby given that the Lebanon Township Board of Adjustment will hold a Special Meeting on November 30, 2020 at 7:00 p.m. Notice of this meeting was published in the Hunterdon Review on November 9, 2022. Copies of the Agenda were emailed to the Hunterdon Review and Courier News and 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 November 18, 2022.

**PRESENTATION OF MINUTES:** November 10, 2022 Regular Meeting

Motion by Ms. Zatika and seconded by Mr. Sachs to approve the minutes as presented. Unanimously approved.

### UNFINISHED BUSINESS:

Wayne Ingram  
140 West Main St.  
High Bridge, N.J. 08829

Block #51 Lot #14.05  
Heather Hill Road R1.5 zone

### PUBLIC HEARING

Variance to build a home on a Private Road with Bulk Variances

Attorney Gallina said he would like to get the following items marked into evidence: **A8**-Affadavit of Proof of Service, **A9**-Notice to Property Owners, **A10**-Certified List of Property Owners and Utilities, **A11**-Certified Mailing Slips, **A12**-Affadavit of Publication, **A13**-Letter from Attorney Michael Selvaggi to Zoning Officer John Flemming dated August 19, 2022.

Chairman Eberle said before we start he would like to make a few comments and wanted the thoughts of the board. Chairman Eberle stated that in their packets they received multiple documents, meeting minutes, a resolution in regards to this lot. It started on July 8, 1977, the Planning Board had many lengthy discussions that followed regarding Heather Hill Road and the fact that two lots were to be merged into one. Per the minutes Michael & JoEllen Ofre owned both Lots 14.D & 14.E (better known as 14.05 & 14.06). Attorney Gallina said there were 3 lots that the bank owned two lots which were to be merged into one which was Lots 14.05 & 14.06 which was never done by the owner which at that time was Michael Orfe. Also, instead of Mr. Orfe improving the road to Class I, he would improve the road to a Class III standard and that was never done. Attorney Gallina said that a CO was issued and that

**Lebanon Township Board of Adjustment**

**November 30, 2022**

**Page 2**

should never have been done. Attorney Gallina said that the merger was never recorded, that condition was never fulfilled, if it had then that lot would not exist. Attorney Gallina stated that the road was never brought up to a Class III standard. Chairman Eberle said there are multiple reasons why this should not be considered a building lot. Attorney Gallina said no, it is an existing lot. Attorney Gallina said it is an existing lot and the applicant has the right to proceed. Attorney Gallina said the applicant would have to go back to the Planning Board to get those conditions vacated. Chairman Eberle said the applicant should go to the Planning Board first and then come back to the Board of Adjustment. Attorney Gallina said it would be the prerogative of the applicant. Ms. Zatika said this lot remains dormant and the owner came in and had the taxes changed.

Attorney Gallina stated the applicant is here to get a variance and as a condition of any approval he will have to go back to the Planning Board to remove those conditions. Chairman Eberle asked do we have options or we don't have any options. Attorney Gallina said we already started the hearing back in July with all this information. Attorney Gallina said in his letter to the board he gave the history of this property. The board has jurisdiction to proceed and if the board doesn't agree they can take a vote. During the discussion, Attorney Gallina said it is the prerogative as to which agency he wants to go to first and you've heard my advice.

Chairman Eberle decided to ask each board member for their opinion. Chairman Eberle asked each board member for their input at this time. Mr. Fortenbacher said it should go to the Planning Board, Mr. Porcino noted that it is in perpetuity which means it is permanent and should go to the Planning Board, Mr. Sachs said he is in agreement, go to the Planning Board first, Ms. Devine had no opinion at this time, Ms. Zatika said it should go to the Planning Board for them to decide whether it is a building lot, Ms. Guevara did not agree and it should stay at the Board of Adjustment first. Attorney Baldwin for the applicant asked to be heard. Attorney Baldwin stated they have been before the board previously and now have additional documents to satisfy the board's concerns. It is not the jurisdiction of the board to decide if it is a building lot, the applicant is here for a variance and bulk variance relief. Attorney Baldwin said each board knows their jurisdiction. Chairman Eberle asked Planner McManus for her input, Planner McManus said she defers to Attorney Gallina since this is a legal question. Mr. Ingram asked to make a comment. Attorney Gallina had Mr. Ingram sworn in at time. Mr. Ingram said a letter was issued on August 1st to your Zoning Office asking the township to uphold its part of the resolution and issue a violation. This was never done. The owner of the two lots should have taken care of merging the two lots and if the Township won't enforce their own ordinance, then what is he going to do.

Ms. Glashoff said she has never received a copy of this letter and asked for a copy for the file. Attorney Gallina asked Ms. Glashoff if she had distributed the letter to the board. Ms. Glashoff said no since she just got the letter tonight. In the letter it stated that the resolution states that a CO for the house on lot 14.05 can't be issued until the two lots have been merged and at the July meeting Mr. Ofre said he did not merge the two lots. In the letter it states that an enforcement action be commenced by the

**Lebanon Township Board of Adjustment**  
**November 30, 2022**  
**Page 3**

Township to rectify these violations. Mr. Ingram said that either separate approvals to be able to build or the Township needs to uphold their prior resolution that would not affect just him but an adjacent owner. The discussion continued with Mr. Ingram noting that unless the Township realizes that a CO was issued without the lots being merged how can you vacate a CO after 40+ years. Attorney Gallina said the Township dropped the ball on this by giving a CO.

The board continued their lengthy discussion and inclusion Attorney Gallina said that everyone has given their comments on this issue. Attorney Gallina said that a motion needs to be made at this time. Motion by Ms. Zatika and seconded by Mr. Porcino that the applicant would have to seek proper vacate of those conditions from the Planning Board since it is not technically an existing buildable lot.

**ROLL CALL**      **Yes:** Mr. Eberle    Mr. Porcino                      **No:** Ms. Guevara              **Absent:** Mr. Terzuolo  
   Ms. Zatika    Ms. Devine  
   Mr. Sachs    Mr. Fortenbacker

**Attorney Gallina will prepare a Resolution to be adopted at the next meeting of the Board.**

**PRESENTATION OF BILLS:**

a. John Gallina, Esq.	\$ 260.00	Attend Board Meeting 11/10/2022
b. Bayer/Risse Engrs.	\$ 260.00	Attend Board Meeting 10/26/2022
	\$ 780.00	Review application, prepare a technical & completion report. <b>(Jesse Goehring-Escrow)</b>
	\$ 260.00	Review of updated documents supporting the Variance. <b>(Wayne Ingram-Escrow)</b>
	\$ 325.00	Night light test, review of the final Lighting Plan prepared by ELP, prepare final report. <b>(Mansion Caterers-Escrow)</b>
c. Court Stenographer	\$ 250.00	Attend ZBA Meeting 11/30/2022
	<b>Total: \$2,135.00</b>	

Motion by Ms. Guevara and seconded by Mr. Sachs to approve the bills as presented. Unanimously approved.

**CORRESPONDENCE**

**OPEN TO THE PUBLIC**

Motion by Mr. Porcino and seconded by Mr. Fortenbacker to open the meeting to the public. Ms. Kathy Goracy of Lilac Lane asked to address the board. Chairman Eberle informed Ms. Goracy that since the

**Lebanon Township Board of Adjustment  
November 30, 2022  
Page 4**

board has made a motion to send this application to the Planning Board, they are not in a position to discuss this property. Motion to close the public portion of the meeting by Ms. Zatika and seconded by Mr. Sachs. Unanimously approved.

Being no further business to come before the board, nor comments from the public, motion by Mr. Sachs and seconded by Ms. Zatika to adjourn the meeting at 7:30 p.m. Unanimously approved.

**CHAIRMAN WAYNE EBERLE**

**GAIL W. GLASHOFF, BOARD SECRETARY**